

Environmental Protection and Other Legislation Amendment Bill 2022

Submission No: 11
Submitted by: Waste Recycling Industry Association Queensland
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:
Submitter Recommendations:



SUBMISSION

25 October 2022

Committee Secretary
Health and Environment Committee
Parliament House
George Street
Brisbane QLD 4000

Email: HEC@parliament.qld.gov.au

To the Committee Secretary

Re: Inquiry into the Environmental Protection and Other Legislation Amendment Bill 2022

The Waste and Recycling Industry of Queensland (WRIQ) is the unified voice of waste management and resource recovery in the State. Representing more than 90 Queensland-based organisations ranging from multi-nationals through to small family owned and operated businesses, WRIQ engages in a broad range of state-specific issues of strategic importance to the sustainability and development of the waste management and resource recovery sector.

WRIQ represents all aspects of the sector including major landfills, transfer stations, resource recovery facilities, firing power facilities and collection services. WRIQ's mission is to elevate the waste management and recycling industries through services, education and advocacy for members to achieve successful economic, social and environmental outcomes.

We welcome the opportunity to provide a submission on the inquiry into the *Environmental Protection and Other Legislation Amendment Bill 2022*. Unfortunately, the short consultation period on such a complex but important piece of proposed legislation has reduced our ability to provide detailed responses or levels of evidence to support those responses; nor have we been able to facilitate detailed feedback from our members. As such, WRIQ provides this submission without prejudice to any additional submission from our members or other individual waste management and resource recovery operators.



Consultation

The *Environmental Protection and Other Legislation Amendment Bill 2022* (Qld) (the **Bill**) was introduced into Parliament on 12 October 2022 and proposes broad ranging amendments to the *Environmental Protection Act 1994* (Qld). The proposed amendments have the potential to impact both existing and proposed operations.

WRIQ is generally supportive of the Bill and acknowledges that some changes are required to achieve better environmental outcomes. However, it is WRIQ's position that the Bill, without thoughtful amendment, does not achieve desired objectives of modernising and improving efficiency in environmental management processes.

WRIQ's specific comments are set out in the following table:

	Proposed Amendments	Comments
Definitions		
1.	Amendment of s16 (material environmental harm)	<p>WRIQ supports the increase in monetary threshold in the definition of material environmental harm. A mechanism allowing for a regular increase in the threshold amount will ensure the Act remains contemporary.</p> <p>However, an increase based on CPI does not readily allow for effective communication with those carrying out the day-to-day operations, and who are the people that will make the decision to notify the Department about an environmental incident. Over time, the threshold amount will not remain a "round" figure which is easy to remember and communicate. WRIQ suggests adopting a pre-determined schedule of increments or a mechanism where a CPI calculation is rounded up to the nearest \$500.</p> <p>Alternatively, the threshold amount could be prescribed by regulation, with amending subordinate legislation passed whenever the Department wishes to clarify the threshold amount (ie. as is done with the value of a "penalty unit" through the <i>Penalties and Sentences (Penalty Unit Value) Amendment Regulations</i>).</p>
2.	Amendment of s17 (serious environmental harm)	We repeat the comments above in respect of the definition of serious environmental harm.
General environmental duty		
3.	Insertion of new s319(A) (Special provision for activities involving relevant industrial chemicals) - GED	Under Commonwealth legislation, chemicals that present a concern to the environment will be categorised and scheduled on the Industrial Chemicals Environmental Management Standard (IChEMS) Register. This provision clarifies that



	Proposed Amendments	Comments
		<p>compliance with risk management measures under the IChEMS national scheme is required to comply with the general environmental duty.</p> <p>Stewardship and management of chemicals of concern is a quickly evolving and complex issue. It is difficult to predict what risk management measures under the national scheme will be required.</p> <p>If this proposed amendment is enacted, it is foreseeable that significant changes to operations and even infrastructure may be required on short notice and at considerable cost.</p> <p>If industry is unable to comply with the risk management measures but may otherwise be able to comply with the relevant environmental authorities, an unwelcome outcome may be that certain activities may need to close.</p> <p>WRIQ objects to the inclusion of s319A primarily on the basis that it undermines the certainty of operating under an approved environmental authority. Uncertainty in any market constrains investment in that sector. In the waste and recycling industry, not only is renewal key but it is currently being encouraged by all three levels of government.</p> <p>If the Department is minded to utilise the national scheme we urge the Department:</p> <ul style="list-style-type: none"> • to clarify that the application of the IChEMS system is intended only to ensure that chemicals of concern are stored in a certain way before use; and used in accordance with the manufacturer's specifications. It will not be relevant for end-stream recipients such as landfills; • to clarify that consideration of whether a person has complied with the general environmental duty is at the time of any alleged incident, and that the risk management measures will not apply retrospectively; • upon any addition or amendment to the IChEMS Register, to legislate a minimum time-period, not less than 6 months (preferably 12 months to accommodate budget cycles), in which a person is expected to take reasonable steps to comply with new risk management measures; and



	Proposed Amendments	Comments
		<ul style="list-style-type: none"> to clarify that if there is a conflict between a condition of an environmental authority and a risk measurement measure, the environmental authority prevails to the extent of the inconsistency. <p>WRIQ also requests assurances from the Department that:</p> <ul style="list-style-type: none"> if risk management measures anticipate releases of chemicals of concern to the environment at higher concentrations than currently allowed under the <i>Environmental Protection Regulation 2019</i>, then the Department will amend its legislation to align with the IChEMS risk management measures; it will actively notify the relevant stakeholders when submissions are sought for IChEMS Register amendment; it will actively notify the relevant stakeholders when amendments to the IChEMS Register are made; it will commit to working with the Commonwealth Government to focus on more product stewardship to ensure fewer chemicals of concern are used or imported into Australia; and it will commit to providing further funding for vital industry during a transition period.
Temporary authorities for emergency situations		
4.	<p>The new s316GC allows a person to apply to the administering authority for an authority to carry out a relevant environmentally relevant activity on a temporary basis because either the activity wasn't carried out before the emergency situation or the scale or intensity of an existing ERA will increase.</p>	<p>WRIQ is generally supportive of this amendment, however, WRIQ requests the following amendments:</p> <ul style="list-style-type: none"> <i>Emergency situation</i> be expanded to include a localised disaster situation for the waste and recycling industry. From time to time there will be a significant weather event in a localised area resulting in significant property damage, which in turn requires a substantial clean-up effort. Debris and rubbish may need to be stockpiled before it can be properly disposed of. Allowances should be made for this. Flexibility to enlarge the end date of 4 months after the day the temporary authority is granted. For example, there may be situations where waste (e.g. organic waste) cannot be properly managed in that time. In the event the application is refused, any information provided by a proponent, in good faith, to the Administering Authority in support of its application



	Proposed Amendments	Comments
		cannot be used in enforcement action pursued by the Administering Authority against the proponent.
Contaminated land		
5.	Amendment of s326BA (when environmental investigation required – contamination of land)	<p>It would appear that the intent of this proposed legislative change is to empower the Department with broader regulatory powers to require environmental evaluations in wide circumstances. However, the proposed broadened power, as drafted, has potential for an environmental evaluation to be required without proper consideration of the effect on environmental values having regard to concentration levels of identified and measured contaminants.</p> <p>It would be possible for the Department to require an environmental evaluation based on mere supposition and speculation, albeit a reasonably held opinion. If exercised in such a way, there is a high likelihood of increasing the number of investigations based on such grounds. This is likely to be onerous on Industry and landowners. We suggest this is not the intent and this expanded power (not based on the nature or level of harm) should not be advanced.</p>
Transitional environmental program		
6.	The application process will be changed to a submission process	<p>This change requires the Administering Authority to draft the transitional program. A transitional environmental program (TEP) is not a permanent environmental authority but is an instrument designed to facilitate the transition from non-compliance to compliance. A TEP was originally designed to be operator led on a voluntary basis because the operator best understands the land, business (including the commercial settings) and technology constraints and ultimately what can be done to, practically, ensure operations exceed what is expected at law.</p> <p>WRIQ submits that changes to this TEP system may result in fewer TEPs being made, which in turn may defeat the purpose of TEPs.</p> <p>Should this amendment be advanced, WRIQ respectfully requests a commitment from the Department to enhance its technical and commercial in-house expertise.</p>



WRIQ thanks the Committee for its time in considering this submission. Please do not hesitate to contact me if you have any questions.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Georgina Davis', is positioned below the typed name.

Dr Georgina Davis
Chief Executive Officer