

Environmental Protection and Other Legislation Amendment Bill 2022

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26 October 2022

Mr Aaron Harper MP
Committee Secretary
Health and Environment Committee
PARLIAMENT HOUSE
BRISBANE QLD 4001

Via Email: hec@parliament.qld.gov.au

Dear Mr Harper MP,

RE: Environmental Protection and Other Legislation Amendment Bill 2022

The Local Government Association of Queensland (LGAQ) is the peak body representing all 77 councils across Queensland.

The Association welcomes the opportunity to provide comment on the *Environmental Protection and Other Legislation Amendment Bill 2022* (the Bill) as the proposed changes within the Bill are of keen interest to our members, potentially impacting how councils deliver essential services to their communities like water, waste and sewerage.

However, the short timeframe provided for feedback on the Bill, as introduced, has made it difficult for the Association to engage comprehensively with members on the full impact these proposed legislative amendments could have on the delivery of essential services across the state.

The LGAQ understands the Bill amends the *Environmental Protection Act 1994* (EP Act), the *Waste Reduction and Recycling Act 2011*, the *Wet Tropics World Heritage Protection and Management Act 1993* and the *Land Title Act 1994*. Given the short timeframe for feedback, the LGAQ will focus its submission on the potential impact of changes to the EP Act.

Local governments are an 'administering authority' under the EP Act, for a matter for which the administration and enforcement has been devolved to a local government under section 514 (see schedule 4, EP Act). The matters devolved to local government are prescribed under Chapter 8, Part 1, Division 1 of the EP Regulation 2019.

The LGAQ thanks the Department of Environment and Science for taking on board previous concerns raised by the Association ahead of the Bill's introduction. However, there continues to be proposed changes within the Bill that cause concern for local government and will need further clarification to avoid unintended, potentially costly consequences, both for local government and the State Government as regulator.

The LGAQ would like to present the following points for consideration to the committee in relation to the current version of the Bill:

1. The LGAQ is pleased to see previous feedback provided reflected in the draft Bill:
 - a. The removal of the 10-year review period for Environmental Authorities (EAs) under section 326B and 326H;
 - b. The removal of the unnecessary addition of 'uniform conditions' in addition to 'standard conditions', as originally defined in section 125;
 - c. The remaining proposed changes to section 125, i.e., the application of environmental authority applications for pilot/research projects, have again been highly supported.



2. **Clause 13: Omission of section 50:** Councils remain concerned about the precedent set by a Bill that proposes to remove a proponent's right to seek a ministerial review of a decision to refuse an EIS (Environmental Impact Statement) to proceed. The LGAQ has been advised that the removal of this section was designed to bring the legislation in line with previous omissions of ministerial review. Local government is opposed to this change and instead encourages further consideration and consultation to reinstate ministerial oversight for other parts of the legislation. That would give proponents under the EP Act the security that no single entity has irrevocable decision-making powers over environmentally relevant activities.
3. **Clause 54: Insertion of new section 319A:** There is a general concern, when referring to national legislation and standards, as for example in the update to section 319A, that national approaches are unable to fully recognise the diversity in size and operations of regional and remote councils. Additionally, due to the nature of regulation like the *Industrial Chemicals Environmental Management Standard*, full compliance might neither be realistic nor desirable for medium and small essential service providers.
4. **Clause 59: Amendment of section 326BA:** While the 10-year-review period has been removed from the proposed environmental investigation powers, issues remain that warrant further consideration in consultation with local government. The removal of a reference to 'concentrations' in favour of a 'reasonable suspicion of the administering authority' in section 326BA(1)(b) potentially opens the door to subjective assessment and increased requirements for environmental investigations at a cost to the EA holder. Local government is concerned that the proposed change deviates from a fit-for-purpose investigative approach, towards a one-size-fits-all solution that puts regional and remote service providers at a particular disadvantage. While the intent of the change is clear, the current wording of this section is considered strong enough to provide the intended environmental protection without opening the door to undue environmental investigation.
5. **Clause 94ff:** The LGAQ has provided no specific comment on the proposed updates to section 440. However, local government would welcome further targeted consultation to clarify how noise standards are to be implemented at the local level. Differences in legislation between local and State-owned land (e.g. state schools) has been identified as a key source of complaints from residents by local government.
6. **Clause 101: Insertion of new chapter 9, part 5A:** The inclusion of Chapter 9, 5A regarding increased focus on the safety of operating officers is commended. The current definition makes it unclear if the additional powers extend to local government chief executive officers. The LGAQ strongly advises that this should be the case to avoid creating two classes of operating officers, wherein the safety of local government officers is considered less important than that of State officers.

Thank you again for the opportunity to comment on the *Environmental Protection and Other Legislation Amendment Bill 2022*. Should you have any further questions, please reach out to [REDACTED], Senior Policy Officer – Water & Waste in the first instance, via email: [REDACTED] or phone [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alison Smith', is written in a cursive style.

Alison Smith
CHIEF EXECUTIVE OFFICER