

Environmental Protection and Other Legislation Amendment Bill 2022

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Submitter Recommendations:



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28 October 2022

Committee Secretary
Health and Environment Committee

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

Dear Committee Secretary

Re: AgForce Submission to the Environmental Protection and Other Legislation Amendment (EPOLA) Bill 2022.

AgForce is a peak organisation representing Queensland's cane, cattle, grain and sheep & wool producers. The cane, beef, broadacre cropping and sheep & wool industries in Queensland generated around \$8.4 billion in on-farm value of production in 2020-21. AgForce's purpose is to advance sustainable agribusiness and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,400 farmers, individuals and businesses provide support to AgForce through membership. Queensland producers provide high-quality food and fibre to Australian and overseas consumers and contribute significantly to the social fabric of regional, rural and remote communities as well as stewardship of the state's natural environment.

The EPOLA Bill 2022 amends four separate Acts to reportedly achieve improved protection for the environment and clarification for some operational areas. AgForce has provided comment on Clauses that can potentially affect agricultural enterprises and Agricultural Environmental Relevant Activities ERAs.

Part 2 – Amendments to the *Environmental Protection Act EPA 1994*.

Clause	Section	Amendment	Comment
4	16	Threshold amount for material environment harm for loss or damage to property has doubled to \$10,000.	Schedule 4 dictionary does not define "property". Is property a component of the natural and physical resources defined as "environment" in Section 8? Does "property" include or exclude watercourses and underground water?

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Clause	Section	Amendment	Comment
5	17	Threshold amount for serious environmental harm to an area of high conservation value or special significance such as GBR WHA, or to property, has doubled to \$100,000.	<p>The Great Barrier Reef World Heritage Area GBR WHA extends from low water mark on the Queensland coast to the outer boundary of the Marine Park (Figure 1). The GBR WHA is managed by the Australian Government Great Barrier Reef Marine Park Authority.</p> <p>It is not clear in the EPOLA Bill 2022, nor the <i>EPA 1994</i> how Queensland Government ascertains environmental harm (as per protocols in Section 579B of <i>EPA 1994</i>) and interacts with Australian Government for assessing impact damage to the GBR WHA, of which 99% is marine park.</p>
17	56B	The Bill omits Section 56B which enables the proponent, by written notice, apply to the Minister to review the decision to refuse submitted EIS to proceed.	AgForce does not support omission of Section 56B and recommends 56B is retained to enable Ministerial review of the Chief Executive's refusal decision for an EIS to proceed. A judicial process is often costly. Retaining this Ministerial review step in 56B may assist in a more efficient review process.
18	57	Omit 57(1), (2 b and c) that pertain Section 56B enabling Minister review.	AgForce does not support amendment of Section 57 which omits consequential phrases in this section referring to Minister review process.
20	59A	Insert – EIS assessment report lapses after three years.	DES staff at the public briefing to the HEC on 24 Oct 2022 confirmed lapsing after 3 years only pertains to new lodgments of EISs and is not retrospective. This is also mentioned in Section 803 (3).
21	125	Insert 125(7) An EA application is required to conduct research into, or test technology or processes relating to an ERA. Three-year EA.	For agricultural ERAs for new cropping and horticulture, can the EA application be lodged by researcher(s) and/or the land manager? It would be useful to clarify for research projects.

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Clause	Section	Amendment	Comment
35	252	EA transfer cannot occur for research or testing technology, if no assessment on environmental values or emissions was provided in the original EA application.	This may impede researchers, where there is a change in staff or organisation conducting the research on an ERA. A new EA application would be required for a research project to continue. This may be an impediment to agricultural ERAs.
108	506A	Insert Orders against persistent offenders, including the Court may prohibit the person from carrying out an activity.	<p>AgForce recommends exempting Agricultural ERA Standards where they relate to record-keeping from this Section 506A order. The onus of proof on the Court and Department of Environment and Science is to prove that persistently not keeping records required for an Agric ERA Standard would result in earth or contaminant release into the GBR Lagoon.</p> <p>Environmental harm cannot be assumed from a lack of record-keeping. Therefore, a person should not be prohibited from carrying out an Agricultural ERA, if they are only guilty of record-keeping and not causing environmental harm.</p> <p>The Bill defines <i>serious environmental offence</i> when the maximum penalty is 1,500 penalty units or more (Section 506A(4)). Breaches of Agricultural ERA Standards (Section 82) of the EPA 1994 are regulatory offences and not crimes. Maximum penalty is 1665 penalty units, therefore a breach is defined as a “serious environmental offence”. The main requirement of Agric ERA Standards is record-keeping, including keeping relevant primary documents for an audit.</p>
111	542A	Insert personal information on public register, if personal safety is at risk	AgForce welcomes this Clause insert into the Bill. This is a positive step towards minimising risks such as farm invasion and machinery tampering by activists lobbying against environmental authorities such as livestock feedlots, intensive livestock agriculture and new or expanded cropping and horticultural areas.

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Clause	Section	Amendment	Comment
111	542A	Insert personal information on public register, if personal safety is at risk	For personal safety and minimise risk to agricultural activities, EA applicants should be able to apply to withhold their names, addresses and Lot Plans being uploaded onto the public register.
125	Schedule 4 Dictionary amendments	Matter of State environmental significance MSES	AgForce recommends including MSES are also defined under the State Planning Policy SPP 2017, in addition to the Environmental Offsets Regulation 2014.

Part 3 – Amendment of *Land Title Act 1994*

Clause	Section	Amendment	Comment
127	50	Insert Section 50(l) - Subdivision plan for land in the Wet Tropics World Heritage Protection Area requires consent from the Executive Director of the Wet Tropics Management Authority	<p>Before endorsing this proposed amendment, AgForce requests a Regulatory Impact Statement is undertaken by the Department. Although the Wet Tropics WHA of 894,420ha is mainly protected area estate, there are more than 2,500 properties neighbouring and/or part of this area</p> <p>https://www.wettropics.gov.au/world-heritage-boundary.html</p> <p>As coastal communities increase and there is demand for living areas in the Wet Tropics area, current landowners should not be penalised, or subject to reduced financial gain, nor prevented from appropriate sustainable subdivision due to their proximity to the Wet Tropics WHA.</p> <p>The proposed Section 50 amendment does not provide guidelines for parcels of land partially in the Wet Tropics WHA and partially outside the WHA.</p> <p>This amendment should not proceed in current format, until further evidence and regulatory impact is considered.</p>

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Part 5 – Amendment to the *Wet Tropics World Heritage Protection and Management Act 1993*

Clause	Section	Amendment	Comment
141	56 (3)	Prohibited Acts	<p>The Bill has omitted mining resource activities from the Wet Tropics Area.</p> <p>AgForce recommends the Bill should also revise the definition of “prohibited act” (Section 56(3) (a)) to omit “constructing or establishing a road or vehicular track”. Tracks in the Wet Tropics Area are necessary infrastructure for wildfire mitigation and managing feral pig vertebrate pests.</p>

Please contact Senior Policy Officer Marie Vitelli at AgForce for further information or clarification on this AgForce submission to the EPOLA Bill 2022.

Yours sincerely



Dr Dale Miller
Policy General Manager

On behalf of:

Michael Guerin
Chief Executive Officer

Figure 1: The Great Barrier Reef World Heritage Area is from low water mark on the Queensland coast to the outer boundary of the Marine Park. GBR WHA is managed by the Australian Government Great Barrier Reef Marine Park Authority, not Queensland Government. How does Queensland Government have the authority to determine “serious environmental harm” over this national marine park?

