Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025

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Environmental Defenders Office

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Health, Environment and Innovation Committee
Queensland Parliament

Dear Health, Environment and Innovation Committee,

Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025

Thank you for the opportunity to provide submissions on the Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025 (**Bill**).

In summary, EDO's key submissions are as follows, with more detail below.

1. In general, the introduction of code managed environmentally relevant activities (**ERAs**) is not supported, where there are already sufficient, fast pathways to environmental authorities (**EAs**) through existing provisions and risks arise in deregulating activities in this way. However, if those amendments proceed, proponents operating under ERA codes should be required to register with the Department of Environment, Tourism, Science and Innovation (**DETSI**) and that register should be made publicly available to ensure clarity for all in how the proponent's activities are regulated.

2. Public notification on terms of references (**TOR**) for environmental impact statements (**EIS**) should be retained, to assist in ensuring that site specific and unique environmental impacts of projects are properly assessed and considered.

3. Recognising the future public cost arising from non-use management areas (**NUMAs**), we strongly recommend that public interest evaluations for progressive rehabilitation and closure plans (**PRCP**) framework are retained. This will ensure an independent review of proposals to leave NUMAs occurs, and that NUMAs are only being proposed if it is in the public interest to do so. The independent review helps in protecting against weakened regulation through regulatory capture.

4. The provisions relating to allowing extensions for fulfilling residual risk requirements obligations should not proceed. If the proposed reforms do proceed, at a minimum the proponent should be required to fulfil some criteria justifying why an extension is needed (including consideration of the public interest) and there should be a limitation on the length of the extension period of 6 months.

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5. We welcome the introduction of powers to direct proponents with no PRCP schedule or rehabilitation conditions to carry out rehabilitation. Regular 3 yearly auditing of proponents' compliance with rehabilitation goals should be maintained, with an exception for proponents who do not yet have any rehabilitation requirements.

6. We hold concerns with respect to the amendments which permit the administering authority to consider historical context and constraints of operations, and practicality of applying best practice management when assessing whether a proponent's methodology achieves best practice management under PRCPs. All proponents undertaking mining activities should be held to contemporary standards.

7. We welcome amendments enabling single integrated permits to operate across tenures under the *Forestry Act 1975* (Qld), *Marine Parks Act 2004* (Qld); the *Nature Conservation Act 1992* (Qld) (**NC Act**) and the *Recreation Areas Management Act 2006* (Qld) (**RAM Act**) to the extent they do not remove existing protections. Accordingly, when making decisions with respect to integrated permits, the Bill should ensure that any existing requirements to consider factors under the relevant Acts are maintained. This will ensure any protected matters are appropriately considered when permitting commercial activities in recreation areas.

8. Amendments lengthening the timeframes for preparing underground water impact reports should not proceed as the current 3 yearly cycles are appropriate and longer period risks delays in actioning impacts to bores.

9. We welcome the proposed amendments to the *Water Act 2000* (Qld) (**Water Act**) which strengthens landholder rights with respect to impacts from resource activities. These amendments will afford landholders greater access to justice which in turn will lead to better public interest outcomes in water management.

We also make the following further comments without detailed commentary:

(a) The requirements for baseline assessment are strongly supported. This will assist landholders in understanding and evidencing impacts from resource activities to their bores.
(b) The requirements for regular reporting on make good obligations are also strongly supported as they will promote transparency and encourage prompt performance by resource industry of its obligations towards landowners. To assist in achieving these goals, we further recommend that reports be made publicly available (or at a minimum be supplied to the landholder about which the report relates).
(c) The introduction of significant environmental values (**SEV**) is supported noting that their efficacy will be dependent on all relevant values being in fact captured in the relevant Regulation and environmental protection policies. However, further consultation on the Regulations providing for matters designated as SEVs is needed.
(d) We support the amendments relating to forfeiture and seizure powers as they clarify powers and provide clearer legislative framework.
(e) The extension of limitation dates for commencing proceedings for environmental offences is also supported as it will ensure the regulator has adequate time to gather evidence.
(f) Amendments relating to providing officers under the NC Act with comparative powers under the *Planning Act 2016* (Qld) are supported as it will enable officers to better carry out their responsibilities.

(g) In relation to the reforms proposed to the accreditation framework, we recommend that the definition of "standard recognition conditions" be amended to exclude s318YE(2)(f) which is "another condition imposed by the chief executive". Inclusion of conditions of that kind are duplicated in the proposed s318YN(3) which empowers the chief executive to approve applications with 1 or more non-standard conditions.
(h) We hold concerns that clause 183 of the Bill is drafted in overly broad terms as it permits persons to take or interfere with water if doing so is necessary to carry out any activities prescribed by regulation. Limitations should be provided to this section to ensure that unintended uses are not unintentionally permitted.

Detailed Submissions

1. **In general, the introduction of code managed ERA is not supported, where there are already sufficient fast pathways to EAs through existing provisions and risks arise in deregulating activities in this way. However, if those amendments proceed:**
   (a) all proponents operating under ERA codes should be required to register with DETSI; and
   (b) that register should be made publicly available to ensure clarity for all in how the operation is regulated.

EDO continues to hold concerns with the proposal to transition of some EAs to mandatory ERA codes for certain activities considered 'lower risk'. The current approval system for standard EA applications is sufficiently streamlined and offers a means for proponents to gain EAs for lower risk activities which satisfy certain criteria without public consultation, discretion from the administering authority whether to approve the application or third-party merits appeal rights. The Bill proposes that eligibility for ERA codes would be self-assessed by the proponent, with no prior scrutiny or oversight by government (or the public). This is antithetical to the regulatory functions that DETSI should perform.

This proposal also demonstrates an inconsistent approach taken by the Queensland Government in how activities are determined to be impactful and the standard of regulation they are subject to. For example, amendments passed to the *Planning Act 2016* (Qld) through the *Planning (Community Benefits and Impact Assessment) and other Legislation Amendment Act 2025* (Qld) resulted in most renewable energy projects being impact assessable regardless of the risk posed.

Under the Bill, proponents are only required to register their activities if a Regulation requires it.[1] We recommend the Bill stipulates that all activities under an ERA code must be registered. This will greatly assist the community as well as DETSI and other agencies in understanding how a project is being regulated, particularly if any issues arise. This also removes the burden of the community and also the EDO in having to ask DETSI every time they are uncertain as to how something is being regulated.

The legislation should also incorporate an obligation for DETSI to ensure the register is made public**.** Having a public register of all proponents acting under codes will assist the community to understand what activities are occurring in their region, and how those activities are regulated. Providing a public register will increase transparency and decrease the administrative burden on DETSI responding to community queries about proponents' activities.

[1] Bill, cl 73, s 318ZK.

We understand that the rationale for making registration discretionary is that DETSI may become aware of proponents' activities via other informal regulatory means (for example because they are required to have a tenure or permit granted under another Act). In our view a formal, centralised registration framework is more appropriate as it will not rely on departmental staff having to seek out information themselves. It will create certainty and ensure all information about proponents operating under ERA codes is located in a single place.

Requiring registration will assist in DETSI and all stakeholders being aware of all environmentally harmful activities taking place across the State, including the scale of conduct under codes along with the resulting cumulative impacts. It would also promote transparency about what proponents are operating under ERA codes and where, and enable appropriate regulation.

We welcome the proposed community consultation on proposed ERA codes and the requirement for all submissions to be considered when making ERA codes.

2. Public notification on terms of references (TOR) for environmental impact statements (EIS) should be retained, to assist in ensuring that site specific and unique environmental impacts of projects are properly considered and assessed.

Early community input in the terms of reference ensures EISs address all relevant matters and issues that may arise in relation to a project. Projects assessed by way of EIS are typically complex, high impact projects with the potential to have multifaceted impacts on the receiving environment. Ensuring community input on draft TOR may reduce the need for further revisions of the EIS, including the need information requests to ensure the various environmental impacts are assessed in the TOR. It may also reduce regulatory burden by ensuring proponents are not required to address irrelevant factors. If DETSI does proceed with removing public notification on the terms of reference, there should be an opportunity for consultation about what the standard terms of reference should be.

3. Recognising the future public cost arising from NUMAs, we strongly recommend that public interest evaluations for PCRP framework are retained. This will ensure an independent review of rehabilitation proposals occurs, protecting against weakened regulation through regulatory capture.

The Bill proposes the removal of the public interest evaluation where mines propose NUMAs.[2] NUMAs are a significant long term environmental harm from resource activities across Queensland. The ongoing management of NUMAs (which are by definition areas which cannot be rehabilitated to a stable condition once mining activities have ended) presents a costly liability to the State of Queensland, and therefore all Queenslanders.

Public interest evaluations are intended to provide for a detailed assessment by an independent entity as to whether a NUMA should be allowed considering the public interest. The criteria set out in s316PA(2) provide for more robust assessment than is provided for under the normal criteria for the environmental authority or PRCP with respect to the NUMA. The evaluations are overseen by

[2] Bill, cl 33.

the Rehabilitation Commissioner to provide further independent analysis of how NUMAs are being regulated.

While the public interest is one of a number of standard criteria to be considered by the decision maker when deciding whether or not to approve a PCRP, the public interest evaluation should be maintained as an independent apolitical assessment as to whether each proposed NUMA is in the public interest.

The public interest evaluation provides an important impartial check and balance against the real or perceived conflict of interest of decision makers when considering other (perceived) benefits from project proceeding such as royalties, jobs, and economic benefits. The cumulative scale of this issue is significant, with one study estimating that there are 128 active voids (the most common kind of NUMA) in the Bowen Basin.[3]

Significant work was undertaken in reforming the rehabilitation laws over many years which led to the public interest evaluation being introduced, amongst other important reforms. There is no reason to remove these provisions and instead the provisions should be utilised more, particularly considering the continual rate of final voids approved in Queensland contrary to the government's policy of reducing final voids left in the state.

4. **The provisions relating to allowing extension of residual risk requirements should not proceed. However, if the proposed reforms do proceed, at a minimum the proponent should be required to fulfil some criteria justifying why an extension is needed (including consideration of the public interest) and there should be a limitation on the length of the extension period of 6 months.**

The Bill proposes new powers for the administering authority, with the consent of the proponent, to extend the period for complying with residual risks requirements. The first residual risk framework was introduced in 2018.[4] The financial provisioning scheme was then commenced in 2019, and subsequently a revised residual-risk framework commenced in 2020.[5] As a result, these requirements on both new and existing projects, mean that any responsible proponent should have begun planning for residual risk requirements by late 2025.

In particular, the 6-month extension of payments that have been deemed necessary to cover the residual risk requirements should follow the polluter pays principle. Given that residual-risk frameworks have been in place for 5 years, there is no reasonable explanation as to why a proponent should be able to defer payment onto the State, and by extension to Queensland taxpayers, to cover any long-term residual risk.

5. **We welcome the introduction of powers to direct proponents with no PRCP schedule or rehabilitation conditions to carry out rehabilitation. Regular 3 yearly auditing of**

[3] Office of the Queensland Mine Rehabilitation Commissioner, 'Management of coal mine voids as non-use management areas' Practice Note, July 2025 https://www.qmrc.qld.gov.au/__data/assets/pdf_file/0036/391698/practice-note-management-coal-mine-voids-numa.pdf

[4] *Mineral and Energy Resources (Financial Provisioning) Act 2018* (Qld)

[5] The residual risks framework commenced on 20 August 2020

proponents' compliance with rehabilitation goals should be maintained, with an exception for proponents who do not yet have any rehabilitation requirements.

We support the proposed amendments to enable the administering authority to direct proponents to carry out rehabilitation in circumstances where there are no rehabilitation requirements.[6] The Bill proposes to require audits only where the administering authority is satisfied the audit is necessary or desirable, or for a notice given within 3 years of the last audit report where exceptional circumstances exist for the giving of the notice.[7] Compliance with rehabilitation requirements is an important issue for resource activities and other environmentally harmful activities in Queensland. Auditing plays an important role in ensuring that proponents comply with progressive rehabilitation requirements. We strongly recommend that the 3 yearly audit requirements be maintained. This is an appropriate period as a longer period risks proponents falling substantially behind on their rehabilitation requirements. However, we accept that an exception would be appropriate for proponents who do not yet have active rehabilitation milestones or obligations.

6. **We hold concerns with respect to the amendments which permit the administering authority to consider historical context and constraints of operations and practicality of applying best practice management when assessing whether a proponent's methodology achieves best practice management under PCRPs.**

The Bill proposes that the administering authority, in assessing a proponent's proposed methodology for achieving best practice management of the area to achieve rehabilitation milestones under the proposed PRCP schedule, may have regard to:[8]

(a) the historical context of operations on the land; and
(b) historical constraints related to existing infrastructure and approvals; and
(c) the extent to which it is practicable to apply current standards related to best practice management to the land.

As emphasised throughout this submission, the achievement of rehabilitation goals falls squarely within the public interest. The introduction of competing factors which seem to support proponents to deviate from best practice management methodologies will likely lead to less successful rehabilitation outcomes, which is at a detriment to Queenslanders generally. The requirements for PRCPs already account for the site-specific nature of each project.[9] We see no public policy justification as to why proponents who continue to conduct mining activities for private commercial gain now and into the future, should not be held to contemporary best practice standards and methodologies for undertaking their activities.

7. **We welcome amendments enabling single integrated permits to operate across tenures under the *Forestry Act 1975* (Qld), *Marine Parks Act 2004* (Qld); the *Nature Conservation Act 1992* (Qld) (NC Act) and the *Recreation Areas Management Act 2006* (Qld) (RAM Act). However, when making decisions with respect to integrated permits, the Bill should ensure that any existing requirements to consider factors under the relevant Acts are**

[6] Bill, cl 34.
[7] Bill, cl 32.
[8] Bill, cl 44.
[9] EP Act, s 126C.

maintained. This will ensure any protected matters are appropriately considered when permitting commercial activities in recreation areas.

At present the Bill proposes that the chief executive can "consider any matter about the related permissions that the chief executive considers relevant for granting the commercial activity permit or organised event permit".[10] This should be amended to ensure that existing factors required to be considered under the various Acts, which are aimed at ensuring protected and recreational areas, are not impacted by the granting of permits for activities.

For example, this includes section 55I of the RAM Act, which requires the chief executive to consider "all matters relevant to ensuring the orderly and proper management of the recreation area to which the permit applies".

Further, section 115 of the NC(PAM) Regulation, which requires, amongst other matters:

(a) the impact the activities proposed to be conducted under the authority may have on the conservation of the cultural or natural resources of the area;
(b) the effect the grant of the authority may have on:
    a. the fair and equitable access to nature; and
    b. the ecologically sustainable use of protected areas;
(c) any contribution the applicant proposes to make to the conservation of nature; any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;
(d) the precautionary principle;
(e) public health and safety;
(f) the public interest;
(g) any recovery plan for wildlife to which the authority applies;
(h) any other matter stated in a management instrument as a matter to which the chief executive must have regard when considering an application for the authority;
(i) the impact the activities that may be conducted under the authority may have on the character and amenity of the area and adjacent areas;
(j) the likely cumulative effect of the proposed use and other uses on the area; and
(k) the orderly and proper management of the area.

These criteria must all continue to be applied in this permitting system.

8. Amendments lengthening the timeframes for preparing underground water impact reports should not proceed as the current 3 yearly cycles are appropriate and longer period risks delays in actioning impacts to bores.

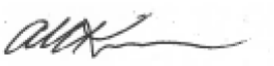
The Bill proposes lengthening the preparation of UWIRs to 5 yearly cycles. The latest draft UWIR indicates that since the last UWIR was released, the number of long-term affected water bores has increased from 650 to 747. Further, the number of off-tenure baseline assessments required has doubled from 16 to 32. Extending the timeframe for preparing UWIRs creates a risk that the detection of the cumulative impacts from resource activities, which are already quite significant, will be delayed. This could lead to the late detection of critical environmental impacts and harm to landowners' water sources.

[10] See for example, Bill, cl 162.

9. **We welcome the proposed amendments to the Water Act which strengthen landholder rights with respect to impacts from resource activities. These amendments will afford landholders greater access to justice which in turn will lead to better public interest outcomes in water management.**

The introduction of standard internal and external review provisions for landholders is similar to resource tenure holders for statutory decisions under Chapter 3 of the Water Act. Doing so provides access to justice for impacted landholders and ensures government accountability and transparency in administering and making decisions under the Water Act. This will lead to better water management in the public interest, and we support these proposed amendments.

Yours sincerely,
Environmental Defenders Office



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