

Inquiry into the Nature Conservation and Other Legislation Amendment Bill 2025

Submission No: 2
Submitted by: Logan City Council - Officer-level submission
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Submitter Comments:

Environmental Protection Act 1994 - officer level submission, not endorsed by Council. The information contained in the submission below was also provided in October 2023 during consultation for the Independent Review of Powers and Penalties of the Act. However the changes were not accepted, and Local Government continues to face challenges with administration of the Act, specifically: The Act provides powers to require a prescribed person to rehabilitate or restore the environment when a contamination event has or is likely to cause serious or material environmental harm. Commonly referred to as 'clean-up' powers, if the polluter fails to comply with an Environmental Enforcement Order (EEO) the issuer of the (EEO) may complete the works and recover associated costs. However, matters relating to serious or material environmental harm are the jurisdiction of the State Government agency, Department of Environment, Science, Tourism and Innovation (DESTI), and do not extend to local government. As the clean-up provisions only relate to a contamination event that has or is likely to cause serious or material environmental harm, local government may not exercise these powers as they are not devolved to local government. Current enforcement options available to local government when responding to a contamination event include the issue of an EEO, the issue of an Infringement Notice or prosecution. Each enforcement option available to local government is inadequate in offering specific and timely tools that protect the environment from further harm in circumstances where an offender will not comply/clean-up for example: Logan City Council recently responded to a water pollution incident, which cost more than \$600,000 to clean up. The incident was reported to the DESTI pollution hotline and by email. While the polluter arranged and paid for cleanup in this instance, Council may have been required to do this and pay for the cost of a clean-up— without any legislative power to recover costs. Local Governments should be given legislative ability to issue an EEO and recover costs of clean up/remediation. The absence of a suitable regulatory clean-up tool that Council can exercise in situations such as the one mentioned creates an unnecessary and potentially substantial financial risk to Council as well as risk to the environment. In many instances Council is the first to be notified and the first to respond to contamination incidents. Due to this, Council should be empowered to act quickly and decisively to remediate environmental contamination to prevent further environmental harm. Recommendations 1. Amend the Act to grant powers that allow local government to enter property, undertake works and recover costs upon non-compliance with an Environmental Enforcement Order. The clean-up powers would be exercised through the issue of an EEO for an enforcement ground correlating with powers devolved to local government, including: • an environmental protection policy; or • a condition of an environmental authority; or • a development condition of a development approval; or • a surrender notice for an environmental authority; or • a regulation; or • a transitional environmental program; or • a condition of a temporary emissions licence • section 426 • section 440 • section 440Q • section 440ZG.

2. Amend the Act to include a power that allows local government to apply a charge to land that can be recouped in the same manner as a rateable charge, similar to the provision in the Public Health Act. Specifically, The Public Health Act 2005 allows local government to undertake any works and recoup costs that have not been reimbursed by the responsible person, by placing a charge on the land. The charge becomes a rateable charge subject to interest and other related Local Government Act 2009 provisions.