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**Ms Erin Jameson**

A/Committee Secretary  
Innovation, Tourism Development and Environment Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [itdec@parliament.qld.gov.au](mailto:itdec@parliament.qld.gov.au)

Dear Ms Jameson

***Submission addressing the Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Bill 2019***

Our organisation represents sugar cane growers who supply Wilmar Sugar mills in the Burdekin. Accordingly our comments in relation to the *Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Bill 2019 (the Bill)* pertain to sugar cane and fallow crops. That said, many of our comments are equally applicable to other agricultural industries within the defined Great Barrier Reef catchment.

Set out below are our organisation's comments, focusing on the expected impact of the proposed legislation.

**The Bill –**

The Consultation Regulatory Impact Statement (RIS) September 2017 on broadening and enhancing reef protection regulations, now the subject of the Bill, detailed what could only be described, and recognised by the RIS, as imposing significant costs on agricultural producers. For example, the RIS acknowledged that there would be significant direct yearly costs of \$120 million borne by agricultural producers (refer to page 28 of RIS) and ongoing costs of maintenance. Further, any increased profits from changes to farming practice would nevertheless result in a very significant shortfall, with costs exceeding expected benefits. The RIS acknowledged that not all producers would realise the expected profits (refer to page 20 of the RIS) and “*some will find related upfront costs difficult to afford*” (refer to page 38 of the RIS).

The Explanatory Notes that accompany the Bill however largely ignores the likely costs to agricultural producers of compliance with red tape and changes to farming practice standards by the passage of the amendments, predominantly to the *Environmental Protection Act 1994* (the Act).

The Explanatory Notes states (refer to page 9) that an additional \$13.8 million over four years (assuming an average of \$3.45 million per year) to assist farmers transition to minimum practice standards was budgeted in the 2018/2019 State Budget. So, direct yearly costs alone of \$120 million v. \$3.45 million per year in assistance to transition to minimum practice standards for a maximum of four years. The scale is definitively lopsided, with agricultural producers significantly burdened with compliance costs. The assertion that a significant amount of some \$614 million of funding (five year investment by the Australian and Queensland Governments to improve water quality) is directed at the agricultural community, is a non sequitur, as there is absolutely no evidence of any of that funding specifically being available to assist growers absorb likely compliance costs (as compared to, for example, significant amounts directed to scientists).

The tone of the Bill and the Explanatory Notes are adversarial: the interests of primary producers v. the interests and agenda of the State Government. For example, the Explanatory Note –

- states several times (refer to pages 1 and 8) that primary producers had failed to sufficiently improve practices;
- states that a substantial increase in penalties for breaches of the *Environmental Protection Act 1994* (the Act) was justified, without any evidence that the current penalties were inadequate. The proposed increase in penalties are penal in nature, rather than reflective of any potential damage or act as a disincentive;
- provided for wide powers to make regulation in relation to farming practice without regard to potential reduction in crop yield and no compensation to primary producers for loss of yield; and
- stipulated an obligation to produce farm data the purpose being to draw conclusions on a primary producer's farming practice without any assurance or guidelines on how such information may be utilised by the State Government.

The Bill is ambiguous in that the full effect of the amendments to the Act are not contained in the Bill; the unknown factor is the effect of further regulations likely to be enacted pursuant to the Act. For example –

- Section 81 – an agricultural ERA standard – that by regulation may impose a raft of restrictions and conditions that impact farming practice and farming infrastructure.

The Bill and the Explanatory Notes fails abysmally to balance the interests of primary producers (who are overwhelmingly small family farming enterprises) and that of the State. The economic impact on primary producers (that is, small family farming enterprises) appears an irrelevant consideration having regard to the provisions in the Bill and Explanatory Notes.

The tapestry woven by the Bill and Explanatory Notes is a harsh and abrasive landscape.

### Clauses of the Bill

Set out below are comments in relation to specific clauses of the Bill.

Clause of the Bill	Section of the <i>Environmental Protection Act 1994</i>	Comment
Clause 8	<b>Chapter 4A</b> <b>Part 2</b> <b>Sections 77 - 78</b>	The review is limited to the objectives of the environmental protection policy and fails to consider negative impacts of the policy such as loss of yield and the financial burden imposed upon primary producers. This should be amended, and the review should also include the financial and economic impact of the policy on the Queensland Agricultural Industry.
	<b>Part 3</b> <b>Section 81</b>	<p>The Chief Executive's power to make an ERA standard pursuant to section 318 and thus specifically an agricultural ERA standard is wide, unfettered and ambiguous – refer to section 81(3). Compliance with an agricultural ERA standard can impose huge financial costs upon agricultural producers, potentially requiring changes to not only farming practice, but farming infrastructure.</p> <p>The Chief Executive's powers, when making an agricultural ERA standard, must have regard to criteria, similar to criteria set out in section 319(2) of the Act, such as:</p> <ul style="list-style-type: none"> <li>• The current state of technical knowledge of primary producers;</li> <li>• The ability of primary producers to acquire technical knowledge;</li> <li>• The costs of compliance had to be reasonable in all the circumstances;</li> <li>• Realistic time to comply with the agricultural ERA standard;</li> </ul>

		<ul style="list-style-type: none"> <li>• The financial implications of different measures as it relates to potential harm minimisation;</li> <li>• The financial implications of implementation of the agricultural ERA standard and potential yield losses.</li> </ul> <p>The Bill should be amended accordingly.</p>
	<b>Part 3</b> <b>Section 82</b>	<p>The penalties for contravening an agricultural ERA standard are penal in nature given maximum penalties of 1,665 penalty units (1 penalty unit (as at 1 July 2018) = \$130.55) for a wilful breach [equates to \$217,365.75] and 600 penalty units for any other breach [equates to \$78,330].</p> <p>This is a substantial increase from the previous maximum penalty of 100 penalty units [equates to \$13,055]. The implication is that primary producers are environmental criminals. This should not be the approach of the Queensland Government to a vital and important contributor to the Queensland economy.</p> <p>Any consequence that is punitive (such as the proposed penalties) is unlikely to affect long term behavioural change, as is clearly evident by recidivism in crime (Townsville crime being a prime example).</p> <p>The impact of such a penalty imposed upon a small family farming enterprise – which are entities least likely able to adopt, afford or accommodate structural changes sought by the Bill – will potentially inflict financial hardship upon the family business.</p> <p>There should be alternatives to imposing a financial penalty for a breach of an agricultural ERA standard, such as the requirement to undertake, for example, a sugar cane Best Management Practice program and achieve accreditation in a specific (relevant to the alleged breach) module/s or the provision of agronomic advice. If the intent is to change behaviour, than working with recalcitrant growers and funding education via the provision of agronomic advice is more likely to produce behavioural change.</p> <p>The proposed amendments should be removed from the Bill.</p>
	<b>Part 4</b> <b>Sections 83 – 86</b>	<p>There is no evidence provided, other than a weak reference to such advisers having the potential to influence land management decisions made by producers, in the Explanatory Notes that demonstrates the necessity for the imposition of the proposed requirements upon agricultural advisers.</p> <p>The proposed amendments should be removed from the Bill.</p>
	<b>Part 5</b> <b>Sections 87 – 88</b>	<p>The proposed standards for new production will stifle growth in agriculture, particularly within the Sugar Industry, due to difficulty in complying with, and the costs of, the offset requirements.</p> <p>A principle of natural justice is procedural fairness in making administrative decisions. It offends principles of procedural fairness to impose higher standards for new producers, the resultant being higher costs of production and potentially lower property values.</p> <p>The amendments should be removed from the Bill.</p>
	<b>Part 6</b> <b>Section 89</b>	<p>There is no evidence provided in the Explanatory Notes that demonstrates the need for this regulation-making power.</p> <p>Of concern is the proposed use of data, particularly yield data, as crop yield varies dramatically each season (in excess of 2 million tonnes of cane is a possible seasonal variance) depending on many confounding factors such as weather (temperature, cloud cover, cyclones, rain fall), crop maturity,</p>

		<p>season length, variety of sugar cane, pests and diseases. There are no guidelines in relation to how such data is to be utilised; there is no uniformity in relation to the collection of such data, the resultant being the data will lack reliability.</p> <p>The current requirements imposed upon growers pursuant to sections 84 and 85 of the Act are more than adequate to achieve the Environmental Protection Policy. Comments made in relation to sections 83 to 86 are repeated and relied upon.</p> <p>The amendments should be removed from the Bill.</p>
<b>Clauses 10 - 15</b>	<b>Part 5A</b> <b>Sections 318YA – 318YV</b> <b>Sections 322A – 326A</b>	<p>The accreditation program for agricultural ERAs is extensive, and the process to achieve and maintain an “<i>accreditation program</i>” is very detailed. Of concern is the cost to each Agricultural Industry to achieve and maintain an accreditation program.</p> <p>The Explanatory Notes are silent on the anticipated cost to Agricultural Industries and whether the State Government will continue to support programs such as funding of the BMP smart cane program. The advantage and incentive for growers to achieve BMP accreditation is the deemed compliance with an agricultural ERA standard, however, this will be for naught if the State Government fails to support the program.</p>

### Conclusion

The Explanatory Notes lays blame with primary producers being slow to change farming practice, stating that “*despite significant government and industry investment, particularly in agriculture, voluntary approaches have failed to facilitate sufficient uptake of improved practices*” without there being an evidentiary reporting of where such investment was targeted. As a grower representative organisation we have witnessed many programs being rolled out by both Queensland and Australian Governments that had very little prospect of effecting change (for example, funding a GPS on a tractor) or could not be regarded as “*value for money*”.

The current regulations are producing results in reducing the run-off of nitrogen and changing farming practices in the Sugar Industry. In October 2017 the 2016 Report Card reporting on the results of Reef Water Quality Protection Plan 2013, reported for 2015-2016 –

1. Modelling of annual average loads of dissolved inorganic nitrogen reduced by 5.5% in the Burdekin as a result of improved nitrogen and irrigation management.
2. 1,339 sugar cane growers engaged in industry best management practice programs.

As there is clear data that demonstrates growers are changing farming practices and this change has resulted in demonstrated improvement in reduced loads of dissolved inorganic nitrogen, the Queensland Government should, instead of imposing further costly regulations, work with the Sugar Industry to improve implementation of BMP, the resultant being longer term behavioural change and improved water quality in the Great Barrier Reef.

The Explanatory Notes do not address likely negative consequences of the Bill, namely:

- the cost of such regulations to be borne by primary producers (including their ability to comply with increased paperwork and red tape);
- the unacceptable risk of loss of productivity, loss of income and loss of viability;
- the hardship potentially facing farming families;
- the impact on regional Queensland communities; and
- the loss of economic benefit to the Queensland economy.



It is for the reasons expressed in this submission that our organisation regards the public hearings as an important part of the consultation process and we seek the opportunity to appear at the public hearings.

Please do not hesitate to contact the writer should you wish to discuss any matter in this submission further.

We await your reply.

Yours faithfully

**PIONEER CANE GROWERS ORGANISATION LTD**

A handwritten signature in blue ink, appearing to read 'Julie Artiach', with a long horizontal flourish extending to the right.

Julie Artiach

**MANAGER AND COMPANY SECRETARY**