Speech By

Hon. Leeanne Enoch

MEMBER FOR ALGESTER

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ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

BIODISCOVERY AND OTHER LEGISLATION AMENDMENT BILL

Hon. LM ENOCH (Algester—ALP) (Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts) (4.08 pm), in reply: First of all, I would like to thank all members for their participation in the debate of these two bills. I am pleased to see the level of support for these bills expressed by so many members of the House. The primary objective of the Biodiscovery and Other Legislation Amendment Bill 2019 is to amend the Biodiscovery Act 2004 to reflect international standards, helping Queensland's biodiscovery industry remain globally competitive and ensuring that the benefits of biodiscovery are shared particularly with First Nation peoples.

The biodiscovery industry is expanding globally and in Queensland. This bill clarifies the relationship between the Biodiscovery Act and relevant international protocols, namely the Nagoya protocol and the International Treaty on Plant and Genetic Resources for Food and Agriculture, the FAO treaty, that came into force in 2014.

This bill recognises and protects traditional knowledge accessed for biodiscovery by providing for an obligation to take reasonable and practical measures to use traditional knowledge for biodiscovery only under agreement with the traditional knowledge custodians. The new obligation is established in part 2A of the bill. Without these amendments, First Nation peoples can do little to prevent unauthorised use of their traditional knowledge. The biodiscovery bill reduces the administrative burden by removing the requirement for a biodiscovery plan detailed in part 2 of the bill. Additionally, an exemption to comply with the Biodiscovery Act is provided for entities working with plants listed under the FAO treaty, also detailed in part 2 of the bill. I would now like to turn to the matters raised during the debate.

Regarding the development of the code of practice, the agreement with traditional knowledge custodians, parliamentary scrutiny and penalties I say: recognising traditional knowledge custodians and their rights to determine how that knowledge can be used and developed is non-negotiable. Regarding transparency, before it can commence, the code must be approved by regulation meaning parliamentary scrutiny and disallowance procedures will apply. Should the code be updated, a new amendment regulation will be required and tabled in parliament, ensuring there is ongoing parliamentary scrutiny.

On the topic of penalties, having significant penalties for noncompliance with the traditional knowledge obligation is consistent with the existing penalty for use of native biological material for biodiscovery without a benefit-sharing agreement. It is reflective of the harm and lost benefits that can result. The committee also acknowledged that the penalty associated with the traditional knowledge obligation is proportionate. Given the penalty, people will be supported to meet their obligation through the traditional knowledge code of practice, which will be developed in consultation with First Nation peoples and biodiscovery entities.

In relation to concerns about the use of traditional knowledge which is already in the public realm—and I have to say I was completely shocked by the tone of the opposition on this matter—there is already a significant incentive for biodiscovery entities to identify the custodians of such traditional knowledge. This is because doing so will help them identify compliance with the Nagoya protocol, thereby more easily enabling collaboration and international research commercialisation. The code will outline the necessary requirements for fulfilling the traditional knowledge obligation under different circumstances including where knowledge is considered to be in the public domain. The code will be developed through deep collaboration with First Nation peoples and biodiscovery entities, meaning that it will reflect a solution that suits all stakeholders.

Further, existing biodiscovery projects not covered by the act but utilising traditional knowledge are not required to retrospectively seek the consent of traditional knowledge custodians. This does not prevent biodiscovery entities from voluntarily satisfying the traditional knowledge obligation. By doing so, they may actually improve their ability to collaborate and commercialise with global partners because they can demonstrate Nagoya compliance.

The member for Noosa and others have raised perceived concerns about the potential for research and development associated with vital pharmaceutical products being delayed, given the obligation to meet the traditional knowledge obligation. To this I say it is completely indefensible to continue to allow knowledge possessed by the First Nation peoples of Queensland to continue to be taken and used without their consent and denying their right to share in the benefit of that knowledge. It is absolutely indefensible.

During this debate the member for Broadwater has incorrectly asserted that failure to comply with the code prior to its approval by regulation could result in penalties to a biodiscovery entity. This is not the case. To be clear, there can be no penalties for failing to comply with the traditional knowledge obligation until after the code has been approved. Therefore, the code is only one way to comply with the traditional knowledge obligation and, as such, there is no penalty for failing to comply with the code itself.

Amendments have been included to reflect changes to civil liability under the Public Service Act 2008. These amendments continue the protection currently afforded under Public Service legislation. In regards to concerns from the member for Scenic Rim, civil liability protection only applies if an omission or act was done honestly and without negligence. Therefore, a minister or chief executive would be liable for malpractice in the same way an executive of a corporation would be liable if reasonable steps were not taken to prevent the offence. This protection for the minister is not new. The bill simply continues existing protections for the minister that are already in the act. This change is needed because of amendments to the Public Service Act 2008.

Protections will still exist for traditional knowledge holders as the minister will not be able to sign off on any new agreements until satisfied that the traditional knowledge obligation has been fulfilled. Prior to the code's implementation the obligation can still be fulfilled through good faith negotiation. Preliminary discussions have commenced with biodiscovery entities and traditional knowledge holders regarding matters to be considered in developing a code of practice and it remains a priority for the government to develop the code within 12 months of the passage of the bill.

The Biodiscovery and Other Legislation Amendment Bill reflects the Palaszczuk government's commitment to support the commercialisation of bioproducts and improve the business environment for biodiscovery. Biodiscovery has already generated a range of benefits for the state including royalties from commercialisation and job creation in both cities and more remote regions. Without aligning the Biodiscovery Act more closely with international requirements, Queensland companies and universities are limited in international markets that do not accept products that are not Nagoya compliant.

The biodiscovery bill enables First Nation peoples to participate in biodiscovery, requiring that access and benefit sharing is negotiated fairly. As partners in biodiscovery, First Nation peoples would have more opportunities to reconnect to country and culture but also realise benefits through the creation of new jobs and new skills, particularly in regional communities. The sharing of traditional knowledge is likely to contribute further economic opportunities for the state and particularly for regional First Nation communities.

The Environmental Protection and Other Legislation Amendment Bill 2020 contains a range of amendments that continues the Palaszczuk government's suite of reforms to rehabilitation outcomes and financial assurance provisioning in the resources sector. Establishing an independent position of the Rehabilitation Commissioner responds to calls for rehabilitation expertise to be maintained to a high level by the government and for this expertise to inform rehabilitation outcomes across the state. There is also a need for a strategic reporting mechanism to achieve transparency and better rehabilitation outcomes. This is why we have seen such strong support for the Rehabilitation Commissioner, particularly from the community.

The environmental protection bill also enhances our existing residual risk framework to ensure our approach to identifying and managing residual risks is clear, transparent and efficient. This means the taxpayers of Queensland will not be left to foot the bill for costs that are the result of resource activity. Where a risk management plan is required, the existence of residual risks will need to be recorded on the relevant land title. This will assist landholders to be able to make informed management decisions for their land. There is no additional burden on landholders—noting on title is for transparency—and no obligations are imposed on landholders under any of these changes.

The proposed amendments that I will move during the consideration in detail stage of the bill will clarify concerns that the notation would apply broadly across all lots subject to a resource activity. These proposed amendments address a recommendation in the committee report to make it abundantly clear that the notation of residual risks will apply to the individual lot.

The other ancillary amendments included in this bill that amend the Environmental Protection Act will benefit industry and government through clarifying terminology and reducing regulatory burden. These amendments are welcomed by stakeholders like the Queensland Farmers' Federation for clarifying intent, addressing industry concerns and supporting administrative efficiency.

This includes clarifying the information requirements for environmental authority applications for new cropping and horticulture activities in Great Barrier Reef catchments to ensure farmers only have to provide what is necessary. Further, to attack the peer reviewed scientific evidence that underpins not only Queensland's response to protecting the Great Barrier Reef but also the Australian government's response is extraordinary and, quite frankly, unbelievable.

The member for Callide continues to attack science in this House. It is absolutely astounding. Another example is the amendments which continue to support the new framework for progressive rehabilitation and closure plans, for providing the ability for this plan to be submitted later in the environmental authority application process if an environmental impact statement is to be completed. Industry has welcomed these amendments. Coupled with the rehabilitation and residual risk reforms, these amendments contribute to clarifying the requirements of resource operators which will lead to greatly improved environmental outcomes for Queensland.

I now turn to the matters raised with regard to residual risk guidelines and the role of the Rehabilitation Commissioner. When I introduced the Environmental Protection and Other Legislation Amendment Bill to parliament in June this year, I also announced that an industry implementation working group would be created to support the residual risk reforms. The purpose of this working group will be to finalise the residual risk assessment guideline and other implementation material that reflects user needs. Given the importance of the guideline and associated materials, it is appropriate that this is done in consultation with subject matter experts and industry.

Creating the role of an independent Rehabilitation Commissioner will not increase regulation or add more bureaucracy, as has been suggested by some members opposite. The commissioner's role is to provide additional expertise for the department, community and industry and does not include a regulatory role that would add any sort of requirements on industry. Further, it does not add an additional layer of bureaucracy as the role sits separate to the department and provides independent expert advice. In this way, the role of the mining regulator and expert adviser are appropriately kept separate and will not duplicate roles or responsibilities. Industry has called on the government to ensure it has sufficient expertise available, and that is what the government is delivering in the Rehabilitation Commissioner. We have heard the words 'increased regulation' but there have not been any arguments that provide substance to these claims.

The Rehabilitation Commissioner will not have a role in determining requirements for individual mines or other resource sites; in other words, there are no additional requirements for any resource company as a result of creating the role of the independent Rehabilitation Commissioner. The role will also be a conduit and mechanism that will support improved communication between the community, industry and government regarding expectations of best practice rehabilitation.

Regarding the commentary that there should be sufficient expertise within the department to provide advice on best practice rehabilitation, I remind those opposite of their track record in government when 85 full-time roles from the environmental regulator were cut, including engineers, scientists, planning experts, environmental officers and 38 dedicated frontline compliance and assessment officers. When members of the LNP talk about how they think the Public Service already has the relevant expertise, we know that they are not being honest. Their opinion of departmental staff was obvious in the way they cut and sacked staff from the former department of environment and heritage protection.

The Environmental Protection and Other Legislation Amendment Bill will deliver a range of benefits to industry and the Queensland community without imposing any additional regulatory burden, particularly increasing clarity and certainty regarding rehabilitation requirements. The Rehabilitation

Commissioner will ensure greater environmental outcomes can be achieved in Queensland through the evaluation of resources sector data and reporting on performance and trends. This will support the ongoing responsible management of our land for the benefit of current and future generations. Through publishing best practice standards online for the public to access, the Rehabilitation Commissioner will generate clear and transparent expectations of the resources industry for their rehabilitation requirements and how they manage land.

Growth of the resources industry will be supported through the increased clarity of these rehabilitation requirements and other obligations. The residual risk reforms directly address claims of concerns from industry that the current requirements of the framework are confusing and prevent resource companies from applying for surrender. The establishment of the Rehabilitation Commissioner and amendments to the residual risk framework will benefit the resources industry by supporting business planning and by creating cost and time efficiencies for business to solidify Queensland as a smart place for further investment. The renewed transparency for the residual risk framework will ensure the community is fully informed about any risks remaining on parcels of land which have been the subject of a resource activity.

A bill does not reach this point without considerable work from many people both within and outside of government. I extend my thanks to all those who met with and made submissions to the Department of Environment and Science to discuss the development of the two bills, including members of the traditional knowledge stakeholder round table, representatives from Queensland universities, individual biodiscovery entities in the public and private sectors, resource peak body representatives, and conservation and community groups.

Lastly, I acknowledge the teams in the Department of Environment and Science for their hard work and persistence in bringing these bills together, in particular Geoff Robson and Julia Playford. I also thank the staff in my office for their hard work in the team effort that has brought this cognate debate together. I commend the bills to the House.

Division: Question put—That the Environmental Protection and Other Legislation Amendment Bill be now read a second time.