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

Second Reading (Cognate Debate)

Hon. LM ENOCH (Algester—ALP) (Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts) (11.43 am): I move—

That the bills be now read a second time.

The Biodiscovery and Other Legislation Amendment Bill 2019 and the Environmental Protection and Other Legislation Amendment Bill 2020 are both significant pieces of legislation that represent key reforms of the Palaszczuk government. I would like to thank the respective committees for their consideration of these bills—the former Innovation, Tourism Development and Environment Committee for consideration of the Biodiscovery and Other Legislation Amendment Bill, and the Natural Resources, Agricultural Industry Development and Environment Committee for consideration of the Environmental Protection and Other Legislation Amendment Bill. I would also like to thank those who participated in the two committee inquiries either by providing submissions or by attending a hearing.

The committee reports for the biodiscovery bill and the environmental protection bill were tabled on 21 February and 3 August 2020 respectively. Both committees recommended that the respective bills be passed. The committee report on the environmental protection bill also included three further recommendations. I am pleased to table the government's response to this report.

Tabled paper: Natural Resources, Agricultural Industry Development and Environment Committee: Report No. 6, 56th Parliament—Environmental Protection and Other Legislation Amendment Bill 2020, government response 1310.

This response notes recommendation 1 of the committee's report—

… that the explanatory notes provided with a Bill note the existence or absence of a RIS and outline the process undertaken by the relevant department in consideration of the development of a RIS.

This is a general recommendation for all bills, but I would like to note that the Department of Environment and Science has been fully cooperative in providing detail on the regulatory impact assessment process that was undertaken for the Environmental Protection and Other Legislation Amendment Bill when the committee requested further advice. To address the committee's recommendation, I would now like to table an erratum to the explanatory notes for the Environmental Protection and Other Legislation Amendment Bill which provides detail on the regulatory impact assessment process undertaken. The erratum also corrects a numbering error.

Tabled paper: Environmental Protection and Other Legislation Amendment Bill 2020, erratum to explanatory notes 1311.

As outlined in the government's response to the committee report, all elements of the bill were assessed in accordance with the *Queensland government guide to better regulation*. For key proposals, including the Rehabilitation Commissioner and residual risk reforms, a preliminary impact assessment was completed and submitted to the Office of Best Practice Regulation. The OBPR considered the assessment and concluded that the preparation of a RIS was not necessary. The other two recommendations asked that I provide clarity on some matters in my second reading speech, and I will address both of these shortly.

I will firstly address the biodiscovery bill. The Biodiscovery Act 2004 provides the legal framework for accessing Queensland's renowned biodiversity for commercial purposes and ensures that benefits from these activities are shared with Queenslanders. The biodiscovery bill supports Queensland's biodiscovery industry to grow and collaborate with international markets, paving the way for companies to be compliant with the Nagoya protocol. This is essential for effectively supporting Queensland's biodiscovery industry to grow and remain nationally and internationally competitive.

No-one has a better knowledge of Queensland's biodiversity than the First Nation peoples who have understood and utilised it for many thousands of years. That is why I am proud to say that this bill will give the custodians of traditional knowledge the means to benefit from, and participate in, biodiscovery. This bill will bring about consistency with the Nagoya protocol, which includes recognition and protection of traditional knowledge and has been ratified by 124 countries globally. It provides for consent and benefit sharing to be negotiated with traditional knowledge custodians on mutually agreed terms, where traditional knowledge is used in biodiscovery. This will enable First Nation peoples to feel confident about sharing their valuable knowledge of native plant and animal material and to share in any benefits on their own terms. It will also support new and innovative research to develop commercial products.

Approvals under the Biodiscovery Act will be simplified with the removal of biodiscovery plans from the approvals process—a sensible reform which reduces administrative burden for all. The biodiscovery bill clarifies the relationship between the Biodiscovery Act and relevant international protocols, primarily the Nagoya protocol and the International Treaty on Plant and Genetic Resources for Food and Agriculture, sponsored by the Food and Agriculture Organization of the United Nations, commonly known as the FAO treaty. This clarity will assist Queensland researchers to share benefits worldwide for crucial food and agricultural crops and reduce confusion between overlapping legislative frameworks. The FAO treaty applies to use of food and agricultural resources to support food security. The Biodiscovery Act would still apply to non-food uses of agricultural crops, such as use in cosmetics.

As a government, we are committed to working in partnership with First Nation peoples. As the committee has acknowledged, engagement with stakeholders has been highly collegiate and I would like to thank both the traditional knowledge stakeholder round table and the biodiscovery entities for the collaborative nature of the discussions, and for the invaluable advice from the round table on proposed amendments relating to traditional knowledge. The Department of Environment and Science and I are committed to continuing detailed discussions with both these groups to develop the traditional knowledge code of practice and supporting guidelines. Developing the code of practice will ensure that people impacted by the new traditional knowledge obligation are fully aware of the steps they need to take in reaching agreements with custodians of traditional knowledge. Guidelines will further support the code by acknowledging culturally appropriate ways of engaging First Nation peoples.

Although not subordinate legislation, the code will be approved by regulation and therefore subject to parliamentary scrutiny. A person cannot be prosecuted for breaching the traditional knowledge obligation until the regulation and therefore the code is approved. Let me be clear though—while following the code is one way of fulfilling the traditional knowledge obligation, it is not the only way. The code will be written in plain English, rather than in the legal format required for a regulation, to provide clarity for biodiscovery entities. Therefore, it would be inappropriate to include the code in the regulation itself. There will nevertheless be protections in place for traditional knowledge while the code is being developed because the state will not enter a benefit-sharing agreement unless satisfied that the traditional knowledge obligation has been fulfilled.

During the committee's consideration of the biodiscovery bill concerns were raised that creating protections for traditional knowledge may cause delays in research and development. As the traditional knowledge obligation effectively provides assurance for both biodiscovery entities and First Nation peoples, its addition may accelerate the rate of new products and therapies being developed. This is because potential commercialisation partners are more likely to invest.

The amendments to the Biodiscovery Act will maintain Queensland's leadership in access and benefit-sharing regulation and reinforce our reputation as the preferred state for conducting biodiscovery. What is more, Queensland's First Nation peoples will be better able to participate in biodiscovery by negotiating the fair and equitable share of any benefits that arise.

In his contribution to the public hearing on this bill, David Claudie, CEO of the Chuulangun Aboriginal Corporation, thanked the government for proposing amendments to the act that 'take into account and respect the traditional knowledge of Indigenous peoples and for putting in place a framework that meets the obligations of the Nagoya protocol and the access to genetic resources for the fair and equitable sharing of benefits arising'.

In his address to the committee, Mr Colin Saltmere of the Myuma Group, which includes the highly successful Dugalunji Aboriginal Corporation, spoke of the proven benefits of using traditional knowledge and engaging First Nation peoples in biodiscovery. Mr Saltmere explained that over the last 12 years their organisation's facilities, where development of a range of products using spinifex nanofibres is undertaken, have created training and employment opportunities for 1,200 young First Nation peoples. This includes work on research and development as well as harvesting and processing of spinifex. I am advised that, prior to the onset of COVID-19, 700 of these young people were still engaged.

As the impacts of the COVID-19 pandemic on the global economy become increasingly understood, industries like biodiscovery will play an important role in driving future employment and economic recovery in Queensland. Biodiscovery could lead to the development of novel drugs that might be used to treat or possibly even prevent another major health crisis in the future.

I am also taking this opportunity to address the Environmental Protection and Other Legislation Amendment Bill. This bill heralds the next step in improving our already world-leading rehabilitation regulations and will continue to contribute to creating more regional Queensland jobs through land rehabilitation. The Palaszczuk government is serious about Queensland being a world leader in rehabilitation standards for the resources sector to benefit the environment, the community and, importantly, our government's plan for jobs and economic recovery. The environmental protection bill enables the appointment of a Rehabilitation Commissioner with specific statutory functions. The Rehabilitation Commissioner's role is designed to further enhance Queensland's rehabilitation framework by providing clear, independent advice on best practice rehabilitation for the resources sector, the community and the regulatory functions of government.

I also note the almost 200 submissions the committee received that support the creation of a Rehabilitation Commissioner role in the interests of Queensland's environment, community, industry and economy. Creating this position will not add a regulatory burden. Rather, the role will add value to Queensland's environmental protection framework with new functions and expertise to support the government, industry and the community. The Rehabilitation Commissioner will provide rigorous scientific and independent advice that will be made available to both industry and government when making decisions on rehabilitation aspects of resource projects. This will improve rehabilitation outcomes and the efficiency of the regulatory system for the benefit of both the community and planning for rehabilitation across the resource industry.

We know the resource industry takes achieving world-class rehabilitation for Queensland seriously and we are responding to its request to provide greater clarity on achieving that. The Rehabilitation Commissioner means the government has a dedicated senior officer that can engage with stakeholders on best practice rehabilitation and associated matters. This will provide an additional opportunity for interested stakeholders including landholders, industry specialists, scientists and First Nation peoples to contribute to our world-leading rehabilitation outcomes.

The Rehabilitation Commissioner will have a unique role to play in promoting better understanding and awareness of rehabilitation matters and activities. For example, the Rehabilitation Commissioner will develop technical and evidence based reports on complex aspects of rehabilitation and best practice management of mine land. All the advice, reports and guidance prepared in the exercise of the Rehabilitation Commissioner's functions must be published online. This will ensure transparency and will also provide a valuable tool for stakeholders on best practice rehabilitation standards. The appointment of a Rehabilitation Commissioner will also play a key role in providing strategic reporting on rehabilitation performance and trends. This will enable Queensland's resource sector rehabilitation framework to be properly evaluated and ensure greater public confidence by being more transparent in monitoring, measuring and reporting on rehabilitation outcomes.

The bill also supports our rehabilitation reforms through amendments to the residual risk provisions in the Environmental Protection Act. These amendments include a requirement for a post-surrender management report to be submitted with a surrender application where a resource activity has been carried out. The amendments do not introduce further information requirements for surrender. Their purpose is to ensure that the requirements are crystal clear and will be more efficient by consolidating existing requirements into the one report.

The Department of Environment and Science is working closely with industry to ensure there is sufficient guidance available so that resource operators can understand in advance what will be expected of them when it comes to surrender. This will assist with project planning and support the surrender of land so it can be made available for other productive uses as soon as practicable.

The residual risk assessment guideline will include and define all the technical terms relevant to undertaking a residual risk assessment. In its report, the committee recommended I clarify that the term 'credible residual risks' will be included and described in the residual risk assessment guideline. This was recommendation 4 of the report. The term 'credible residual risks' is not used within the residual risk assessment method nor in the legislation. The term used in the framework is 'credible risk events'.

The Department of Environment and Science has worked with subject matter experts and the resources industry to identify credible risk events that may occur after the surrender of a resource site. These credible risk events were then incorporated into a working model of the residual risk calculator by technical experts and validated by industry representatives. To ensure that the residual risk assessment is undertaken with reference to an individual resource site, the Department of Environment and Science will work with the industry implementation working group to ensure that the residual risk assessment guideline includes detail on how credible risk events will be identified and calculated. The guidelines will also determine how monitoring and maintenance are calculated for individual sites. In this way the residual risk assessment guideline will set out the quantitative risk assessment method to be used by environmental authority holders to assess the relevance and materiality of these credible risk events regarding their sites.

Immaterial or incredible risks are not included in the credible risk event component of the residual risk calculation. Where a credible risk event is identified, the residual risk calculation tool will assess the materiality of the risk measured against a threshold value. The credible risk event will only be included in the residual risk calculation when it is above the threshold.

Should this bill be passed, I will be writing to stakeholders as soon as possible inviting them to participate in the industry implementation working group. This working group will provide a user view of the documents and processes for the residual risk reforms to deliver practical, transparent and appropriate outcomes.

A key part of these reforms is the development of a consistent environmental risk assessment method for all resource activities to ensure the proper identification of ongoing management requirements. This will increase clarity and certainty for industry and landholders about how any remaining risks on resource sites being surrendered will be assessed, documented, funded and managed into the future.

This bill also includes the requirement for all post-surrender management reports to be included on a public register. This will enable information on the residual risk assessments to be accessible by current and future landholders. Further, the proposed new residual risk fund will ensure that residual risk payments are managed by an entity with the required expertise.

There is a range of other provisions in the environmental protection bill that address minor drafting and operational issues in the Environmental Protection Act. These amendments are directed at increasing efficiency and, while technical in nature, contribute to this government's ongoing work in ensuring high-quality legislation that addresses the needs of industry, regulators and the community.

I would now like to speak to recommendation 3 of the committee report for the environmental protection bill—that I clarify that the notation of residual risks on the land title will occur at a lot-on-plan scale, not on a resource tenure or environmental authority scale. This is certainly the intent of the bill's provisions. To ensure that this intent is unambiguous, I will move amendments during consideration in detail. These amendments are to one provision of the bill, proposed new section 275B of the Environmental Protection Act, which provides for the recording of residual risks on land title to reflect the intent that notation on the title would only occur on those lots assessed as having ongoing management requirements.

During the committee inquiry, questions were raised about this section. The drafting in the bill meant the section could be interpreted as though notation on title was required for all lots covered by a surrendered environmental authority, even if only some of those lots had management requirements. As it is important that there is no ambiguity on this matter, amendments are proposed to ensure the intent is clearly and correctly reflected in the drafting. These amendments put beyond doubt that notation on title will only occur at a lot-on-plan scale, not at an environmental authority scale.

This bill also includes other minor and technical amendments to the Environmental Protection Act that will improve and clarify the requirements of existing regulatory processes. In particular, there are amendments to streamline and reduce regulatory burden for farmers in meeting the new Great

Barrier Reef protection measures. These amendments will put beyond doubt that the application requirements for new commercial cropping and horticultural activities in reef catchments are limited to reef water quality matters such as the release of fine sediment. Further, there is no requirement for these environmental authorities to include details on how the land will be rehabilitated after the activity ceases. These amendments were supported by the Queensland Farmers' Federation and mean farmers are not required to do more than is necessary in meeting the new Great Barrier Reef protection measures.

I will also move amendments during consideration in detail of the environmental protection bill to amend the Acquisition of Land Act 1967 to support important koala conservation initiatives. Recently, the Gold Coast City council was hampered in its efforts to obtain several parcels of land in the regional landscape and rural production area for the purpose of koala conservation. This occurred because of a drafting error in the Acquisition of Land Act 1967 resulting in an inconsistency between this act and the South East Queensland Regional Plan 2017. The term 'regional landscape and rural protection area' should be replaced with 'regional landscape and rural production area' where it relates to the taking of land for koala conservation. These amendments will ensure that land may be taken for the purpose of koala conservation where that land is designated 'regional landscape and rural production area' in the South East Queensland Regional Plan 2017.

Both bills before us today address key commitments of the Palaszczuk government. The Biodiscovery and Other Legislation Amendment Bill fulfils the government's commitment to support the commercialisation of bioproducts and improve the business environment for biodiscovery.

Through Tracks to Treaty, the Palaszczuk government has committed to meaningful, impactful partnerships with First Nation communities that strengthen the way to self-determination and a more inclusive and respectful shared future. The recognition of the traditional knowledge possessed by this country's first scientists and the opening up of pathways for First Nation Queenslanders to share in the benefits from its use in biodiscovery are commitments the government is proud of.

The Palaszczuk government has also committed to ensure that land disturbed by resource activities is rehabilitated to the highest standards. The Environmental Protection and Other Legislation Amendment Bill represents another significant milestone in our delivery of this commitment. I commend the bills to the House.