Speech By

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MEMBER FOR CONDAMINE

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GAS SUPPLY AND OTHER LEGISLATION (HYDROGEN INDUSTRY DEVELOPMENT) AMENDMENT BILL

Mr WEIR (Condamine—LNP) (12.15 pm): I rise to speak to the Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023 in my role as shadow minister for natural resources, mines and energy. The explanatory notes state that the objective of the bill is to provide a regulatory approval process to authorise the construction and operation of pipelines for hydrogen, hydrogen blends and hydrogen carriers as well as other gases in Queensland. To achieve this objective, the bill proposes to amend the Gas Supply Act 2003 in order to expand its jurisdiction to hydrogen, hydrogen blends, biomethane and other gases; and the Petroleum and Gas (Production and Safety) Act 2004 in order to provide a clear and effective regulatory pathway for a proponent to apply for a pipeline licence for the transmission of hydrogen and hydrogen carriers.

Queensland's developing hydrogen industry requires a regulatory framework to support its growth. This was noted in the 2032 Queensland Energy and Jobs Plan, which includes an action item for the Department of Energy and Public Works to 'prepare legislation to support effective regulation of hydrogen development and use'. While the scope of the bill is narrow, the DEPW advised the committee that they are 'leading a broad review of Queensland's regulatory framework to ensure all elements of the hydrogen value chain have an effective regulatory framework in place'.

In Queensland, the Gas Supply Act 2003 and the Petroleum and Gas (Production and Safety) Act 2004 provide the existing regulatory framework for proponents to transport petroleum and gas through pipelines. The bill aims to provide the regulatory approval process to authorise the construction and operation of pipelines for hydrogen, hydrogen blends and hydrogen carriers as well as other gases in Queensland by amending the Gas Supply Act and the Petroleum and Gas (Production and Safety) Act 2004. The proposed amendments to the Gas Supply Act and the Petroleum and Gas (Production and Safety) Act 2004 also aim to provide consistency with changes being progressed nationally to the national gas law and the national energy retail law with regard to hydrogen and other renewable gases.

The bill proposes to expand the Gas Supply Act's remit from processed natural gas to include hydrogen, hydrogen blends, biomethane and other covered gases. Clause 5 of the bill amends section 3 of the Gas Supply Act to extend its main purposes from the regulation of the distribution of processed natural gas to the regulation of covered gases. The term 'covered gas' is defined in clause 7. This change reflects the intention for the Gas Supply Act to apply to hydrogen and other renewable gases in addition to processed natural gas.

Section 4 of the bill provides clear limits on the scope of the Gas Supply Act; for example, by expressly excluding matters such as safety and quality from its jurisdiction. The amendment to section 4 is necessary to ensure these excluded matters remain unaffected by the addition of covered gases in the Gas Supply Act. A covered gas is defined in the bill as a primary gas or a gas blend. A primary gas is processed natural gas as well as hydrogen, biomethane, synthetic methane or a substance prescribed by regulation that is suitable for consumption. The term 'gas blend' is defined in the bill as meaning primary gases that have been blended together and are suitable for consumption.

Under the Gas Supply Act, a distribution authority authorises its holder to transport processed natural gas through a distribution pipeline or system within the stated area or distribution area and to provide customer connection services to premises in the area. Clause 9 of the bill amends section 29(2)(a) of the Gas Supply Act to add a further requirement to the notice the regulator must publish before deciding an application for a distribution authority. In particular, the regulator must publish details about the type of covered gas for the distribution authority prior to the regulator considering submissions and making a decision about the application. However, hydrogen, while prescribed as a fuel gas under the Petroleum and Gas (General Provisions) Regulation 2017, is not expressly listed as a substance that can be transported under a pipeline licence. The proposed amendments to the petroleum and gas act would enable licensing and operation of transmission pipelines to transport hydrogen and hydrogen carriers. These proposed amendments include the requirement for safety to be a mandatory consideration when deciding whether to grant a pipeline licence.

Clause 12 of the bill amends section 3A of the petroleum and gas act. The amendment broadens the existing secondary purposes of the act to include the construction and operation of pipelines for regulated hydrogen. The amendments provide certainty to industry and community stakeholders that there is a framework in place that will regulate hydrogen and hydrogen carriers in pipelines in a way that is safe, effective and efficient.

The Transport and Resources Committee completed its report into this bill in July this year. I would like to acknowledge the committee and the committee secretariat for their diligence in putting this report together. I would like to acknowledge my colleagues on that committee, the members for Gregory and Toowoomba North. The committee made one recommendation in the report: that the bill be passed.

I would like to commend the energy minister on what I believe to be his first energy bill in this term of parliament. It is somewhat concerning, in what is such a critical portfolio, that this is the first piece of legislation that we have seen from this minister in this term. It begs the question: what is the legislative agenda?

The LNP broadly supports the intent of the bill; however, as noted in the LNP's statement of reservation to the committee report, there are some concerns we wish to ensure are put on the public record. We have pointed out that there are opportunities for better leadership around the ongoing number of projects that may be subject to compulsory acquisition. Unnecessary angst has been caused over the years through projects that have gone through a process for compulsory acquisition, only for the project to not proceed. One example that comes to mind is the government's complete failure with Traveston Dam, something my colleague the member for Gympie fought strongly against. Compulsory acquisition powers must be treated with the utmost importance and used fairly and with due process. Pipeline and similar projects can bring community benefits, but they also bring significant impacts to landowners and those near the project. By the department's own admission, the notification process can be improved for these affected communities. The government could have used this bill as an opportunity to improve and modernise the notification process but has failed to do so.

The LNP also welcomes the department's comments in relation to encouraging common user infrastructure; however, there are different hydrogen products that need varying methods of transportation and storage, so there may be limitations as to who can benefit and utilise this infrastructure. It is clear that government leadership in this regard would go a long way to reducing wider impacts on communities. I would urge the minister to acknowledge this.

A number of submissions were received by the committee. I wish to refer to some of them as part of my contribution today. Glencore's submission to the committee proposed that the bill be broadened to prescribe ammonia for the purposes of new section 11A of the petroleum and gas act. Glencore suggest that there are opportunities to supply low-emission, low-carbon ammonia as a feedstock to industrial processes, both internationally and domestically. However, the department advised that the intent of the amendments is to provide a regulatory assessment pathway to authorise the construction and operation of transmission pipelines for hydrogen and hydrogen carriers in Queensland. The amendments were not intended to allow for the transportation of a substance prescribed by regulation that is used for a purpose which is not associated with the emerging hydrogen industry and so were not relevant to this bill.

Clause 15 of the bill amends the definition of 'pipeline' in section 16 to add regulated hydrogen as a substance that may be transported through a pipe or a system of pipes. The intent of this amendment is to provide clarity to industry and community stakeholders about substances that are authorised to be transported in pipelines. Clause 16 also broadens the definition of 'major user facility' to include a facility operated as a place of export for fuel gas including, for example, a port or a facility operated for the liquefaction of fuel gas before it is transported to a facility operating as a place of export

for fuel gas. Without these changes, a pipeline transporting fuel gas that consists of hydrogen will be considered a distribution pipeline under the petroleum and gas act and cannot be licensed. Glencore's submission proposed that the definition of 'major user facility' in section 16A would benefit from being broadened to also refer to export facilities for regulated hydrogen.

The department stated that regulated hydrogen is defined separately to fuel gas and, as such, the change to the definition of 'major user facility', which only relates to fuel gas, will not apply to regulated hydrogen. Should a proponent seek to transport a substance prescribed as regulated hydrogen, for example ammonia, to an export facility, an application would be made for a pipeline licence under the Petroleum and Gas (Production and Safety) Act 2004.

Clause 20 of the bill amends section 411 to require that a public notice state each substance proposed to be transported through the pipeline. The department stated that the Petroleum and Gas (Production and Safety) Act 2004 requires notification for pipelines in a newspaper circulating throughout the state or, if the proposed licence is in an area pipeline licence, generally in the area. The proponent is also required to notify any relevant local governments. In addition, impacted landowners will have communications from the proponent for the pipeline land to be first obtained. To be eligible to construct a pipeline, pipeline land must be owned by the proponent or be land over which the proponent holds an appropriate easement for the construction or operation of the pipeline or has obtained the owner's written permission to enter to construct or operate the pipeline or holds a part 5 permission to enter to construct or operate the pipeline.

Usually the parties will negotiate either an easement or an agreement with the relevant landowners which will also provide for any compensation payable; however, where an easement or an agreement cannot be negotiated, the proponent may apply to the Minister for Resources for a part 5 permission. A part 5 permission is a temporary permission to enter the land to construct and operate a pipeline. In the rare circumstances where pipeline land is not settled after the expiry of the part 5 permission, the land may be compulsorily acquired. There were many lessons learned in the gas industry regarding this. I hope they are taken up with regard to the hydrogen industry.

Clause 27 of the bill amends section 670 to allow for regulated hydrogen substances to be excluded from being operating plant where the substance is prescribed as an excluded compound. This will allow RSHQ to independently determine if the operating plant safety framework is the most suitable safety framework for regulated hydrogen substances prescribed in section 11A. That is something the community needs full confidence in. The Queensland Law Society stated—

If the intention is that pipelines carrying only the substances prescribed in section 6A of the *Petroleum and Gas Regulation* are to be excluded from the definition of 'operating plant', then the Regulation should go further and state that those substances are excluded compounds for the purpose of section 670 of the Act.

The department advised that—

The approach proposed in the QLS submission will be provided to the Office of Queensland Parliamentary Counsel for consideration in drafting the relevant amendments to the P&G Regulation.

APA Group Ltd submitted their general support for the bill and added the following proposal with regard to land access. As stated in their submission—

Easements (and other land access rights) generally reflect what was negotiated between the parties and are naturally inconsistent in drafting. Some existing easements in their current form may only permit the transportation of natural gas/hydrocarbons. This means transporting hydrogen and other future fuels in existing pipelines, either as additives to, or instead of, natural gas may constitute a new permitted purpose. If this is the case, all existing easements in Queensland would need to be reviewed and new easements may need to be negotiated if the original permitted purpose is not sufficient.

This would be a very costly and drawn out process for industry and governments and could present challenges for meeting Queensland's clean energy targets.

...

It is vital that industry go above and beyond the minimum regulatory requirements in order to build and maintain its social licence to operate. This can be assisted by nurturing positive, productive and transparent relationships with landholders in line with growing investor and customer expectations regarding environmental, social and governance performance. This will include engaging with landholders in instances where a variation to an existing easement is necessary.

As stated in the committee report—

Regulations made by the Governor in Council under the GS Act and P&G Act must be tabled in the Queensland Parliament. The Queensland Parliament may disallow a regulation made under a Queensland Act.

We are satisfied that the Bill sufficiently subjects the exercise of the delegated legislative power to the scrutiny of the Queensland Parliament because any regulation must be tabled in the Queensland Parliament, and it may be disallowed by the Parliament.

As further stated in the committee report—

Although landowners are able to be compensated for allowing the PPL holder access to land, and for the restriction on the use of their property in the area of any PPL, the statement of compatibility acknowledges:

> In limited circumstances, where agreement cannot be reached, the Minister administering the P&G Act can approve temporary access to construct and operate the pipeline for up to nine months and can also compulsorily acquire land for these purposes. These requirements also apply where native title exists in the area. Compensation is paid to the landowner or native title party if resumption occurs.

That goes back to the earlier statement about the social licence in the rolling out of this legislation. If you do not have the social licence this all becomes very difficult, so that is very important. Indigenous representatives stated there was a lack of consultation in relation to the potential impact of limitations on Indigenous cultural rights. As stated in their submission—

… without that knowledge no person can make a judgement on whether the limitations that will arise from the passage of the Bill are reasonable and demonstratively justifiable.

The submission further states that the Queensland government has not yet made contact with the traditional owners who are 'most affected by any potential developments and changes to the regulatory environment governing the hydrogen industry'. Their submission continues—

The views and concerns of the PBC, as the representative of the affected First Nations People, have not been appropriately canvassed in the development of the *Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023* (Qld). Under these circumstances, a Statement of Compatibility that suggests that indigenous cultural and human rights have been properly considered under this proposed legislation is disingenuous.

I note that the minister acknowledged that and addressed it in his contribution.

In closing, the LNP will not be opposing this bill. We acknowledge that it does have sound intent. As I also stated, we have learned many of the lessons of the past and I hope they will be taken on board. As the minister stated, the hydrogen industry is a growing industry and there will need to be a number of amendments to facilitate that industry. It is not only government that is investing: private money is being invested in hydrogen. One of the best things the government can do for the future of hydrogen is to provide certainty of investment. Unfortunately, industry in Queensland has been hit with a number of unexpected announcements that have undermined investment in Queensland. Some of the main people who will be buying hydrogen going forward—and I am talking about Japan as a perfect example—are questioning their investment in Queensland. They are looking at other states in Australia which are more sound and reliable to do business with. That is the main thing this government has to do. Is there going to be a market for hydrogen? Yes, but if we do not give business the confidence that Queensland is a safe and sound business environment in which to do business they will go elsewhere. That is what this government needs to address more than anything else.