




Speech By
Aaron Harper

MEMBER FOR THURINGOWA

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**ENVIRONMENTAL PROTECTION (POWERS AND PENALTIES) AND OTHER
LEGISLATION AMENDMENT BILL**

 **Mr HARPER** (Thuringowa—ALP) (5.32 pm): I rise to speak on the Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024. In following the member for Bonney, I note that, while the opposition made no statement of reservation and will not oppose the bill, he just had to have a cheap shot at the end of his contribution. What I can say to the member for Bonney is that this bill might actually help you—

Mr DEPUTY SPEAKER (Mr Martin): Through the chair, please.

Mr HARPER: This bill might help the Liberal National Party because it makes some changes around nuisance issues and they have a fair bit there. The bill contains better management principles that they can now apply.

Government members interjected.

Mr HARPER: I thank them for agreeing to pass the bill; that is great. The objectives of this bill are to ensure that powers and penalties in the Environmental Protection Act 1994 are contemporary and fit for purpose while facilitating a more proactive approach to environmental risk management with enhanced regulatory responses to manage and restore environmental harm that has occurred. The bill aims to achieve this by: clarifying and refining environmental policy principles; rationalising statutory notices to ensure compliance with authorities, duties and obligations; and to respond to environmental harm events. It also aims to establish a new duty to restore the environment and associated existing duties or obligations and offences and to improve evidentiary provisions related to court proceedings.

Submitter support of various provisions in the bill was mixed. Some submitters were concerned about the practical implications of the proposed inclusion of principles of environmental protection that would be applied to the general administration of the act, particularly with respect to defining 'polluter'. Hopefully, I will get to that a little later in relation to the polluter pays principle.

Issues were raised with regard to the combined environmental enforcement orders, EEOs, that the bill introduces to replace the existing environmental protection orders, direction notices and clean-up notices, and the potential for this new notice to be issued to environmental authority holders complying with conditions of an environmental authority or to require changes to environmental authority conditions. Submitters were also concerned about the time frame to notify landholders of entry to their land as part of the new EEO, but I believe the department gave a very good response. If there is a spill on a landholder's property, action needs to be taken urgently to clean that up as quickly as possible, so I think the two days is completely appropriate.

The bill introduces a proactive duty to restore the environment, which was supported by the majority of submitters. However, submitters were concerned about amendments to the duty to notify of an event causing environmental harm, particularly with the insertion of the words 'ought reasonably to have become aware of the event'.

I will touch on a couple of things that the committee picked up on during its examination of the bill. An interesting one is with regard to upstream pollution, particularly around PFAS. I did not know, but we were informed by the department that a lot of that comes from everyday—

Mr Perrett: Make-up.

Mr HARPER: Yes, it was make-up; the member is right. Make-up, clothing and all of those things affect pollution. I note that councils are responsible for cleaning up deliberate spills and that can come at a significant cost. I commend them because often they act very quickly to do that and the department gives them the supports that they need. In terms of some of the commentary of the member for Bonney, I believe the department is doing some very good work in informing and working with councils to do those clean-ups in a timely manner.

The committee received a number of submissions. Amendments to the Environmental Protection Act proposed by the bill include the three Ps, as the member for Bonney said—the polluter pays principle, the principle of primacy of prevention and the precautionary principle—as the environmental policy principles to be applied to the general administration of the Environmental Protection Act. It also incorporates human health, wellbeing and safety into the Environmental Protection Act definition of ‘environment’ and ‘environmental value’. The bill provides that environmental nuisance—for example, unreasonable interference from the release of aerosols, fumes, light, noise, odour, particles or smoke—will no longer be precluded from being material or serious environmental harm.

The bill proposes amendments to introduce a new compliance tool to deal with environmental harm events by replacing environmental protection orders, direction notices and clean-up notices with a new single environmental enforcement order, or EEO, which combines the existing powers and scope available under the current notices. I think that truncates or reduces a lot of the concerns around regulatory issues raised by some submitters. The bill also introduces a standalone duty to restore the environment. It requires that, if a person permits or causes contamination that results in environmental harm, they must as far as reasonably practical restore the environment to the condition it was in before the harm occurred.

We acknowledge submitter suggestions for further clarity in the bill about who is and who is not a polluter for the purposes of the polluter pays principle. We also perceived this to be an intractable definitional issue from our review of environmental legislation in other Australian jurisdictions, which revealed no definition of polluter that could provide a comparative reference. We will leave it to finer legal minds than ours to settle that definitional issue. In the meantime, to allay submitter concerns, we urge the department to ensure sufficient guidance exists for how the polluter pays. Environmental principles will continue to be applied in the general administration of the Environmental Protection Act.

The last thing I note is the local government clean-up. The committee made a comment that I will get on the record. The report states—

The costs reported by local government of responding to and cleaning up pollution incidents, particularly where immediate action is needed to reduce harm to the environment and the polluter cannot or will not do the necessary work, are significant.

Examples were provided by some councils on some spills. The report continues—

While we note the department’s advice that increasing the tools available to local governments was out of scope of the Review and that the Bill does not change the existing powers granted to local governments, the committee urges future work with co-regulators on the issue of cost recovery and consideration of whether to legislate expanded grounds for local government to issue notices is worthwhile.

That was something that came up from local government towards the end of the committee’s work. I wanted to explore that a little further.

In closing, I thank my fellow committee members and the secretariat for producing the report. We made one recommendation to pass the bill. These are sensible changes. I commend the bill to the House.