



Speech By  
**Hon. Leanne Linard**


**MEMBER FOR NUDGE**

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Record of Proceedings, 2 May 2024

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

**Second Reading**

 **Hon. LM LINARD** (Nudgee—ALP) (Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation) (4.55 pm): I move—

That the bill be now read a second time.

I would like to thank the Health, Environment and Agriculture Committee for its report on the Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024. I would also like to thank those who made submissions to the committee about the bill and those who appeared as witnesses as part of the committee's inquiry. I note the committee's report contained one recommendation that the bill be passed.

As I outlined in my introductory speech, this bill amends the Environmental Protection Act 1994 to ensure the powers and penalties in the act are adequate and that the tools available to prevent and respond to environmental harm are sufficiently contemporary to address current and future challenges. The amendments support improved environmental protections while also clarifying and refining processes to support users of the legislation including industry, local government and the environmental regulator.

This bill fulfils the government's commitment to implement the recommendations of the independent review of the Environmental Protection Act 1994 led by retired judge Richard Jones and barrister Susan Hedge. The independent review was initiated, in part, due to the significant odour nuisance issues that were being experienced by some residential communities such as Ipswich. However, the enhancements delivered through this bill will benefit all Queenslanders.

I would again like to acknowledge the strong and ongoing advocacy of the members for Bundamba, Jordan and Ipswich on the issue of odour nuisance on behalf of their communities. These members have listened, and continue to listen, to their communities. They bring their issues, concerns and need for solutions to the government's attention. Their strong advocacy for the people of Ipswich is in stark contrast to the LNP who repealed the waste levy when they were in government, turning Queensland into a dumping ground for other state's waste. Not content with that, they then tried to repeal it again in 2019 via a motion moved in parliament by the member for Broadwater. We have not forgotten and the people of Ipswich have not forgotten either.

**Opposition members** interjected.

**Madam DEPUTY SPEAKER** (Ms Bush): Order! Members to my left.

**Ms LINARD:** As you can see, they do not take the concerns and issues in Ipswich in respect to odour and nuisance seriously at all, but their local members and our members do. This bill is another way in which the Miles government is responding to the odour issues that are being experienced by

residents in Swanbank, New Chum and the surrounding suburbs but it does not stop there. My department remains committed to using every tool in its regulatory toolbox to resolve the odour issues in these communities as soon as possible. I will keep working with the local members and communities and the waste industry to alleviate the concerns that are being experienced.

The bill includes amendments to clarify and refine the environmental policy principles that underpin the act. Greater prominence will be given to established environmental policy principles including polluter pays, reinforcing their explicit consideration and providing clarity and direction to government, industry and communities on the values that underpin the act and its administration. The committee noted stakeholder concerns about the polluter pays principle and specifically who is and who is not a polluter.

It is important to note that these principles are not new concepts; they are already considered in decision-making under the act. The polluter pays principle is also part of Queensland's existing commitment through the Intergovernmental Agreement on the Environment. I acknowledge the concerns from stakeholders in relation to challenges dealing with upstream wastes that are difficult to control, such as PFAS in sewage treatment plants. The general environmental duty defence still applies, and the Department of Environment, Science and Innovation will consider what steps are reasonably practicable for an operator to take in relation to managing those sources. There are also other mechanisms to deal with these issues, for example, through the End of Waste Code for biosolids. These existing mechanisms will not be affected by the polluter pays principle.

This bill includes amendments to introduce a new statutory notice, called an environmental enforcement order. This will replace existing provisions for environmental protection orders, direction notices and clean-up notices. It will allow for a single enforcement compliance notice to be used in a variety of circumstances, covering several issues. Streamlining this process will reduce regulatory complexity, enabling a more efficient and responsive compliance approach.

This bill will introduce a new duty to restore environmental harm. This duty introduces a proactive obligation, replacing the existing requirement to rehabilitate or restore in response to a compliance notice. Instead, where a person's actions cause environmental harm or contamination, they will be required, as far as reasonably practicable, to restore the environment to the condition it was in before the incident occurred. I acknowledge that some stakeholders raised concerns about the time frames for notifying landholders to come onto their land as part of the new combined environmental enforcement order. The current time frame for a clean-up notice is five business days and for an environmental protection order it is two business days. The new environmental enforcement order will require a time frame of two business days notice to enter third-party land. While this time frame is a minimum and is obviously subject to discussion with the landholder, I would expect most landholders who have had a contamination event on their property would want to ensure it is cleaned up as soon as possible by those responsible. The committee was also supportive of being able to take urgent action to respond to environmental harm incidents, noting existing safeguards in the act balanced this need with the rights of landholders.

I also acknowledge stakeholders' concerns about environmental enforcement orders being issued to environmental authority holders. The act currently does not include any limitation on issuing relevant orders or notices. The bill will simply provide clarity on existing powers to make clear that an environmental authority is not a barrier to issuing an order or notice when responding to an environmental harm incident where the harm is not clearly authorised or conditioned for under an environmental authority. The amendment maintains the status quo for most environmental authority holders, with impacts limited to operators causing unacceptable harm.

There has been concern raised by some stakeholders that the bill will provide the minister or the environmental regulator with an expanded ability to amend environmental authority conditions urgently. This is not the case. The power to amend environmental authority conditions has been present in the act since it commenced and the bill does not amend these existing powers. What the bill does do is provide clarity on those existing powers under the act to make it clear that an environmental authority is not a barrier to issuing an order on notice when responding to an environmental harm incident.

This bill seeks to promote proactive action by operators by introducing an offence for not complying with the general environmental duty, complementing the new duty to restore. This duty has always been part of the act, which requires reasonable and practicable measures must be taken to prevent or minimise environmental harm. The amendment removes barriers to timely and effective regulatory responses by placing emphasis on prevention. While I acknowledge submitters' concerns about the defences available, the general environmental duty is a broad duty that has always applied to everyone, including environmental authority holders, and has been enforceable through statutory notices under the act. The bill does not propose to change the duty.

Additionally, the bill includes two exclusions from the offence to provide fairness to environmental authority holders and persons complying with a code of practice under the act. In particular, the exclusion applies when the environmental authority provides for the reasonably practicable measures as stated in the duty. This bill will refine the existing duty of a person to notify of environmental harm to include circumstances where the person 'ought reasonably to have become aware of the event' giving rise to the harm. This amendment is not intended to be onerous or require additional monitoring by those captured by the duty. The intent is that it will ensure that the Department of Environment, Science and Innovation is notified early, supporting a timely response to environmental harm incidents.

Improvements to evidentiary provisions relating to court proceedings will be made by expanding provisions currently limited to criminal proceedings to be available in civil proceedings, which will help reduce the time and cost associated with court processes in civil cases. Amendments to the definition of environmental nuisance will be made to clarify that environmental nuisance can be considered serious or material environmental harm. This enables a greater range of enforcement tools and stronger penalties for persistent issues, such as odour, that are more proportionate to the impact on the community. Strong environmental protections help to support the health, wellbeing and safety of our communities. Amendments to definitions in the act will place greater emphasis on the concepts of human health, wellbeing and safety, clarifying the act's role in protecting human health to the extent it is affected by the environment.

The amendments do not make fundamental policy changes. Rather, this bill aims to facilitate a more proactive approach to environmental risk management to prevent the community from being exposed to harm and remove barriers to timely and effective regulatory responses. This will help ensure that the environment and local communities are protected through contemporary, effective and efficient environmental regulation.

Stakeholder concerns about the readiness of updated guidance material to support the amendments in this bill are being addressed. The Department of Environment, Science and Innovation is drafting new and updated guidance material to ensure that information about amendments is available and that people and businesses understand their obligations. Priority is being given to developing guidance that will address new and modified obligations under the act. The department expects that initial guidance will be available at commencement of the legislation.

I would like to briefly address the member for Mirani's dissenting report. The member for Mirani's dissenting report stated there was a lack of consultation and no regulatory impact statement. As stated by the Department of Environment, Science and Innovation, there has been considerable public consultation undertaken. Consultation on the proposals that are reflected in the bill commenced in May 2023 with the government publishing the independent review report and its summary response. This was followed by a detailed consultation paper in September of last year on proposed amendments to be included in the bill. Consultation on the paper was open for eight weeks during which time the Department of Environment, Science and Innovation hosted six stakeholder information sessions. The department received submissions from a number of organisations, including the resources sector, environment groups, local government and other industry groups. All of this feedback was considered in the finalisation of the bill, with care taken through the final drafting to clarify the intent and purpose of the amendments.

My department undertook an assessment of the regulatory impacts of the proposals in the bill consistent with the Queensland government Better Regulation Policy. The regulatory proposals were assessed as either minor and machinery in nature or having no significant impacts. Consistent with the Better Regulation Policy, a summary impact analysis statement was prepared and has been published on the department's website.

The member for Mirani's dissenting report also stated that the general environmental duty offence, contained in clause 13 of the bill, would introduce an element of retrospectivity that is not in accordance with Queensland's fundamental legislative principles. I want to be clear that no part of this bill applies retrospectively. The committee considered issues of fundamental legislative principles in the bill and made no adverse findings. I commend the bill to the House.