




Speech By
Sandy Bolton

MEMBER FOR NOOSA

Record of Proceedings, 2 May 2024

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

 **Ms BOLTON** (Noosa—Ind) (5.40 pm): The Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024 amends several acts to implement the government’s response to the 2022 independent review of environmental protection enforcement and compliance undertaken by retired judge Richard Jones and barrister Susan Hedge.

As you know, my community respect, and are passionate about, the environment. That is reflected in its Biosphere Reserve status and the efforts over decades to protect its unique assets. Yet over the last three to four years we have seen a catastrophic increase in dust, noise, damage to infrastructure and wildlife, and danger to road users and residents through an inappropriate volume of heavy haulage through our Noosa villages with no action through our environmental protection system to mitigate this. This is an example of where an environmental authority, or EA, is issued for small development that allows for an unacceptable expansion if it is the same type of development without triggering a review of the EA in any form. This is not the way to manage developments and permits or the environment and it needs to change.

An EA should deal with all impacts, not just those inside the permit area, and include wildlife carnage, social and economic impacts on residents, and the mental and physical health of communities. We have been advocating for improved environmental regulation, including for an independent environment protection authority, since 2021, and we welcomed the independent review and its recommendations. I have to say that we were thrilled. We thought that we could see a way forward. We now have this bill—I acknowledge there have been many good things in the bill—which implements the recommendations. It had general support from stakeholders although few environmental agencies made submissions, which is disappointing given the significance of this bill.

I want to touch on three areas of relevance to mitigate the environmental catastrophe being experienced in the Noosa electorate through not only a flawed environmental authority but also a quarry management plan. The first was the recommendation to include the concept of ‘human health, safety and wellbeing’ in the definitions of ‘environment’ and ‘environmental value’ that are core to the act. The bill fully implements this and we welcome that.

The second recommendation was that consideration should be given to creating an offence for breaching the general environmental duty, or GED. The GED provides a catch-all power to address adverse environmental impacts for when all else fails. In its current form there are no penalties attached to the GED, making it toothless. Creating an offence for the GED will give it credibility and make it much more effective. However, the bill potentially waters down the GED as a catch-all provision by limiting the offence associated with it, meaning that it does not apply in certain situations. An example is when actions are authorised by an environmental authority—remember, we already have a flawed one—that contains reasonably practical measures.

By exempting specific instruments, the universality of the GED is broken and opens it up for endless litigation of what is authorised in a court system that is already horrendously slow at making determinations, as is being experienced by my community. The department responded that the GED is not changing, so it is not watered down. However, this is missing the point. If it is not enforceable because there are no penalties, it does not really matter that there was a GED beforehand. It is the existence of the new penalties and how they work that gives it the ability to right some serious wrongs.

The third recommendation was to give the chief executive the power to amend environmental authorities when otherwise environmental impacts are not being addressed. That this has not been adopted in full is deeply concerning. With historical EAs granted decades earlier, the size, scale, nature and impact of the activity can change dramatically over time which can devastate communities. Hence, it is vital that a mechanism be available to amend that authority when that occurs.

Even though the bill contains two small technical amendments to make amendments to the EAs in certain circumstances, neither represents an implementation of the review's recommendation or even the principle of the recommendation. The department simply responded that it was seeking to balance environmental protections with impacts on stakeholders. Given the experience of my own community, and no doubt many others across the state, the so-called 'balance' is tilted enormously away from Queenslanders who must ensure the trauma of being exploited by environmental, emotional and economic destruction with no power to do anything about it. This is unacceptable in all ways.

The Environment and Social Governance Research Group at QUT submitted there remains a significant need for compliance mechanisms including a dedicated independent body to monitor and enforce the enforcement mechanisms within the act. Having advocated for an independent environmental protection authority ever since the disaster hit Noosa, I continue to ask when this will be realised, as consultation was completed in July 2022. Every other state in Australia has an EPA, and it is time Queensland had one.

Normally I would support a bill such as this. However, I am really struggling given that the government has not adopted the vital recommendation regarding the chief executive power to amend those historical authorities in dire situations. I ask the minister to please reconsider this serious failing to protect our environment and our people.