

Environmental Protection and Other Legislation Amendment Bill 2020

Explanatory Notes

FOR

Amendments during consideration in detail to be moved by the Honourable Leeanne Enoch MP

Title of the Bill

Environmental Protection and Other Legislation Amendment Bill 2020.

Objectives of the Amendments

The objective of the amendments to the Environmental Protection and Other Legislation Amendment Bill 2020 (the Bill) is to clarify the intent of provisions relating to noting the existence of residual risks on land title. These amendments will ensure that proposed new section 275B of the *Environmental Protection Act 1994* will operate as intended and address concerns raised by stakeholders during consideration of the Bill by the Natural Resources, Agricultural Industry Development and Environment Committee.

Further amendments to the Bill are intended to correct a drafting error contained within the *Acquisition of Land Act 1967*. The drafting error results in inconsistency between terminology within that Act (Regional Landscape and Rural Protection Area) and Queensland Planning documents (Regional Landscape and Rural Production Area). These amendments will ensure that under the *Acquisition of Land Act 1967*, land can be taken for koala conservation in the Regional Landscape and Rural Production Area as intended.

Achievement of the Objectives

To achieve the policy objectives, amendments are proposed to clause 61 of the Bill. These amendments will clarify that noting the existence of residual risks on land title occurs at a Lot on Plan scale, not at an environmental authority scale. This means, for example, if an environmental authority covered multiple lots but, upon surrender, only one lot was identified as having ongoing management or remedial actions, the noting would only be made on the land title for that single lot. There would not be an administrative note made on the title of the other lots the subject of the surrender application.

To achieve the policy objective of enabling land to be taken for koala conservation purposes in the Regional Landscape and Rural Production Area, it is proposed to include an additional

clause in the Bill that clarifies that the current terminology of Regional Landscape and Rural Protection Area should be replaced with the correct terminology (being Regional Landscape and Rural Production Area) where it relates to the taking of land for koala conservation.

Alternative Ways of Achieving Policy Objectives

There are no alternative means of achieving the policy objectives.

For the amendments to clause 61, the Bill must be amended to clarify the policy intent, which will ensure the most effective operation of the relevant provision upon commencement.

To enable land in the Regional Landscape and Rural Production Area to be taken for koala conservation purposes, the *Acquisition of Land Act 1967* must be amended to ensure consistency in terminology with the South East Queensland Regional Plan 2017.

Estimated Cost for Government Implementation

There are no additional costs to government in implementing the amendments.

Consistency with Fundamental Legislative Principles

The proposed amendments are consistent with fundamental legislative principles.

Consultation

The amendments to clause 61 responds to submissions to the Natural Resources, Agricultural Industry Development and Environment Committee. No further consultation was undertaken with regards to this proposed amendment as the purpose is to provide clarity regarding the intent of the Bill.

The proposed amendments to the *Acquisition of Land Act 1967* respond to concerns raised by the Gold Coast City Council that they have been hampered in their ability to acquire land for the purpose of koala conservation as a result of inconsistency of terminology between the *Acquisition of Land Act 1967* and the South East Queensland Regional Plan 2017.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland. It is therefore not uniform with, or complementary to, legislation of the Commonwealth or another state.

NOTES ON PROVISIONS

Amendments 1-8 amend clause 61 so that notation of residual risks on the land title is to occur only where a risk management plan identifies that residual risk activities are associated with the specific lot. A notation will not necessarily be required on each lot covered by a surrendered environmental authority, unless there are residual risk activities on each of the lots.

After approving a surrender application, the administering authority is required to give the registrar of titles notice of any lots the subject of the surrender application in relation to which remedial action or ongoing management activities may need to be carried out. The registrar must keep records showing that each of these lots are subject to residual risks and where the relevant post-surrender management report for the lot may be inspected.

Amendment 9 inserts new clauses 117A- 117C. New clause 117A provides for a new division which amends the *Acquisition of Land Act 1967*.

New clause 117B provides for validation provisions relating to the use of the term 'Regional Landscape and Rural Production Area' in place of the 'Regional Landscape and Rural Protection Area' (the term 'Regional Landscape and Rural Protection Area' within Schedule 1, part 2 of the *Acquisition of Land Act 1967* was incorrectly introduced upon commencement of the *Building and Other Legislation Amendment Act 2009*). This clause has the effect of retrospectively replacing the term 'Regional Landscape and Rural Protection Area' with the term 'Regional Landscape and Rural Production Area', validating any taking of particular land, and particular notices of intention to resume and resumption agreements issued between commencement of the *Building and Other Legislation Amendment Act 2009* and commencement of these amendments.

New clause 117C amends Schedule 1 of the *Acquisition of Land Act 1967* relating to purposes for taking land. This amendment corrects an error, omitting the term 'Regional Landscape and Rural Protection Area' and replacing it with the term 'Regional Landscape and Rural Production Area'.

Amendment 10 amends the long title of the Bill so that it refers to the *Acquisition of Land Act 1967*.