



31 March 2016

The Research Director
Agriculture and Environment Committee ("Committee")
Parliament House
Brisbane QLD 4000

Email: aec@parliament.qld.gov.au

Sent by Post and Email

Dear Sir/Madam,

THIESS SUBMISSION ON ENVIRONMENTAL PROTECTION (CHAIN OF RESPONSIBILITY) AMENDMENT BILL 2016

This submission responds to the *Environmental Protection (Chain of Responsibility) Amendment Bill 2016* ("Bill") introduced to the Queensland Parliament on 15 March 2016. The submission is made with the express approval of Michael Wright, Managing Director of Thiess Pty Ltd.

Overview of Thiess

Thiess is a Queensland-based mining services provider that employs more than 2,000 people across the state. We make a significant contribution to Queensland's economy.

Our services include the provision of truck and excavator operators, mine planning, asset management and maintenance, and rehabilitation specifically for the mining industry. Thiess transferred our former construction business to our sister company, CPB Contractors, last year. As such, we are a much smaller company now, exclusively focussed on the mining sector.

Unlike mine owners, Thiess does not make profits based on the commodity prices. We are contracted to provide a service, often with lean profit margins, particularly in the current market.

Common objectives with the Queensland Government

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Thiess shares a common objective with the Queensland Government to create sustainable jobs for Queenslanders. We also uphold the importance of effective environmental and community management and engagement.

We have been recognised and rewarded internationally for our commitment to the proper rehabilitation of mine sites and we are proud of our successes in this important aspect of economic, environmental, and community sustainability. Thiess has completed more than 700 ha of rehabilitation in Queensland in the past three years and we actively engage our environmental management specialists in all projects.

Thiess fully supports the intent of this Bill to protect the Great Barrier Reef from toxic discharge and to maximise the extent to which the taxpayers are protected from having to 'foot the bill' when mine owners become insolvent. Like the Queensland government, we too perceive an exposure to our mine owner clients who may face financial difficulty in the current downturn.

Key concern – “Related Person - relevant connection with a company”

Our concern with the proposed legislation centres on the wide definition of “*Related Persons*”, specifically paragraph (c).

The definition should expressly clarify that “*Related Persons*” does not extend to service providers or contractors to the mining industry. This is because:

1. Service providers and contractors do not have a sphere of influence, financial or otherwise, on the environmental performance of our clients under their Environmental Authority. Our obligation is to provide mining services in accordance with our contracts in a professional and environmentally responsible way under the direction of our clients.
2. Service providers and contractors such as Thiess are not the holder of the Mining Lease or the Environmental Authority and as such cannot bear the duty of care or responsibility.
3. Fair drafting principles would dictate that it is not reasonable for a service provider or contractor to be retrospectively held responsible for the environmental liability at a site – having contracted to provide mining services to the mine owner – in circumstances where that mine owner subsequently falls into financial difficulty.
4. Service providers and contractors do not share in the profits realised by our clients from the commodities which they sell.

5. Without this amendment, the legislation creates doubt around potential exposure to environmental risk – doubt that does not currently exist in the environmental statutory regimes of other states and territories in Australia.
6. The chain of responsibility should require a more tangible connection to the owner of the site than a services provider or contractor.

We note that our position is expressly supported by the First Reading speech given by the Minister:

"It will not impact contractors or employees. This legislation targets those who stand to make large profits, those who are really standing behind the company and whose decisions have put the environment at risk and who in many cases have personally profited from the operations that have contributed to the environmental risk or harm"¹.

However, without the proposed amendment, the current Bill may be interpreted incorrectly or subjectively by the administering authority, in turn producing unintended consequences inconsistent with the stated intent of the Minister.

Details of requested amendment

Section 363AB(1)(c) of the draft Bill currently defines "Related Person" as follows:

"A person is a related person of a company if the administering authority decides under this section the person has a relevant connection with the company".

We submit that the following new paragraph be inserted at the end of s 363AB(1):

"...provided that for the purposes of s 363AB(1), a related person does not include a contractor or service provider engaged by the company or by a related person to provide services or goods to the company or to a related person (including in connection with a relevant activity)".

Such an amendment would properly reflect the intent of the Bill as supported by the Minister's further comments in his First Reading speech:

"The relevant connection test will capture related parties that have profited from activities carried out under the environmental authority. It will also capture parties that have the

¹ First Reading Speech, 15 March 2016, 2.30pm, Para 022.

*ability to influence environmental performance of the site whether financially, through the ability to give directions or otherwise*².

Further consultation

A final concern relates to the fact that prior to the introduction of this Bill to Parliament, little or no community or industry consultation was undertaken. Furthermore, the Explanatory Notes which accompany the Bill states that "*Due to the urgency of the Bill, consultation has been limited to government*"³. We urge the Committee to consider this lack of consultation as a red flag - such a significant change should not be introduced without broader consultation.

Thiess appreciates the opportunity to make this submission to the Committee.

We would welcome the opportunity to meet with you to discuss the specific detail of the legislation or to clarify our submission to ensure it achieves the appropriate outcome.

I can be contacted on the details below or please contact Trish Russell, a member of our executive team, on 3002 9623.

Yours sincerely,



Douglas Thompson
Executive General Manager, Australia & Pacific
THIESS PTY LTD



² First Reading Speech, 15 March 2016, 2.30pm, Para 022.

³ Explanatory Notes, Page 3.