



31 March 2016

Research Director
Agriculture and Environment Committee
Parliament House
BRISBANE QLD 4000
Sent via email to: aec@parliament.qld.gov.au

Dear Research Director

Submission: Environmental Protection (Chain of Responsibility) Amendment Bill 2016

Thank you for the opportunity to provide comment on the Environmental Protection (Chain of Responsibility) Amendment Bill 2016 (**Chain of Responsibility Bill**). This letter is a joint submission on behalf of World Wide Fund for Nature Australia (**WWF**) and the Australian Marine Conservation Society (**AMCS**). We also rely on the submissions of the Environmental Defenders Office Qld.

We congratulate the Queensland Government for taking the initiative to introduce this important Bill. It is unfortunate that the Department of Environment and Heritage Protection (**DEHP**) has been so long without sufficient powers to hold to account those who profit from or are responsible for poor environmental management and rehabilitation of their sites. This is not only a significant burden on the Government, and therefore also all Queenslanders, in leaving the responsibility of cleaning up after poor operators to the Government, it has also been a significant risk to our environment, including our Great Barrier Reef.

Queensland Nickel Yabulu refinery highlights need for this Bill to be passed

The recent circumstances surrounding the Yabulu refinery, operated formally by Queensland Nickel Pty Ltd which was subject to voluntary administration, highlight the urgency by which this Bill must be passed. The Yabulu refinery is situated in close proximity to the Great Barrier Reef Marine Park and World Heritage Area. We understand that there have been significant job cuts at the refinery, and that the DEHP has been concerned that insufficient staff have been left to manage the refinery's environmental impacts sufficiently.¹ DEHP has reportedly issued an enforcement order to the new

¹ <http://www.smh.com.au/business/mining-and-resources/new-queensland-environment-law-takes-aim-at-clive-palmer-20160315-gnjjsn.html>; <http://www.abc.net.au/pm/content/2016/s4422784.htm>; <http://www.theaustralian.com.au/national-affairs/industrial-relations/queensland-nickel-jobs-hang-in-the-balance/news-story/1911b0a7663514867fe93695d90b42cd>

operators of the site, Queensland Nickel Sales, to require that environmental protection measures continue to operate on the site.²

This concern is made more alarming through recent reports that two creeks near the refinery had elevated levels of ammonia, with Queensland Nickel Sales reportedly alerting DEHP that they were exceeding their environmental authority conditions.³ We understand that no financial assurance was secured by DEHP on commencement of the refinery's activities, meaning that the Queensland Government might be at risk of having to foot the bill for any environmental harm that would need to be remediated or avoided from the site activities if the operators are unable to fund any necessary activities.

Under current law, where environmental authorities are transferred to new operators, those entities who have not adequately managed sites, or who have profited from the poor management of activities, are not able to be easily held responsible for environmental harm that their activities risked or caused once they transfer the authority.

The provisions of the Chain of Responsibility Bill help to ensure that DEHP have the power to enforce a chain of responsibility to provide environmental protection orders to a 'related person of a company'. This helps to ensure that people cannot escape liability where they have sold or traded out of an activity, and to ensure that DEHP is not left with the financial and resource burden of remediating or avoiding environmental harm where an operator no longer has the financial capacity to operate.

Operations such as mines and refineries generally produce highly polluting contaminants in their operational processes. The risks currently posed to our environment, including our waterways and Great Barrier Reef, are significant through financially unstable or poor performing operators being able to avoid liability for funding or undertaking necessary environmental management measures. The Queensland and Federal Governments have committed to protecting our Great Barrier Reef through the Reef 2050 Long-Term Sustainability Plan. The passing of this Bill is an important part of implementing this commitment.⁴

It is essential that this Bill is passed to ensure that those who are responsible for, or who profited from, activities which led or may lead to environmental harm, are able to be held accountable by DEHP.

We suggest that the Committee recommend that all amendments proposed in the Chain of Responsibility Bill be passed by Parliament.

We are happy to assist you by providing any further information you may require as part of your consultation process or to clarify any submissions made here. Please contact Lissa Schindler, AMCS lissaschindler@amcs.org.au.

² <http://statements.qld.gov.au/Statement/2016/3/11/enforcement-orders-issued-against-qld-nickel-sales>

³ <http://www.abc.net.au/news/2016-03-23/queensland-nickel-risks-fines-over-environment-concerns/7268938>

⁴ For example, the implementation of this Bill assists in fulfilling the following commitments:

'EHA18: avoid, mitigate or offset impacts on marine and coastal ecosystems to restore Reef resilience and ecosystem health.'

'EHA28: Support best practice and community stewardship activities that contribute to Reef health and resilience.'

Yours faithfully



Louise Matthiesson
Great Barrier Reef Campaigner
WWF Australia
on behalf of

WWF Australia and the Australian Marine Conservation Society