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Thursday, 31 March 2016

Mr Rob Hansen, Research Director  
Agriculture and Environment Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

**Re: Environmental Protection (Chain of Responsibility) Amendment Bill 2016**

Dear Mr Hansen

We write to provide a submission on the Bill introduced in the last sitting of the Queensland Parliament.

AgForce understands the broad intent of the Bill to introduce stronger legal requirements for mining companies to meet their obligations to rehabilitate mining sites deemed to be subject to environmental harm.

We do have some concerns on the extension of the meaning of related person in the Bill.

Our primary concerns surround the explanation of the Amendment Bill sections;

- a) 363AB Who is a *related person* of a company, and
- b) 363AC Order may be issued to related person

The explanatory note provides the following explanation of the need for these amendments.

**“a person with a relevant connection bears some responsibility for the environmental harm caused, or likely to be caused, as a result of a company’s activities and should bear responsibility for action to address such harm”.**

The intent and rapid implementation of the bill seems to extend responsibility for environmental harm being caused and fixed to include the owner of the land on which the activity occurs.

Our concern is that this application broadly has a range of implications and AgForce is concerned that our members and other landholders will be coerced with little or no defence to being implicated as a “related person” and be liable for “causing harm” and be subject to orders deemed to be causing environmental harm.

While primary producer landholders may receive a financial benefit from a company in the form of a payment as part of a conduct and compensation agreement, these landholders overwhelmingly have limited to nil control of, or financial interests in, companies undertaking resource activities on their land. Much like passive, arm’s length investors. In fact they often experience significant disruption to their operations.

At the Public Briefing by the Department the Minister in his introductory comments was quoted as saying *'The chain of responsibility will not attach itself to genuine arm's length investors, be they merchant bankers or mum-and-dad investors. 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.'*

The departmental spokesperson goes on to say that *'It is certainly about who has the ability to influence the conduct of a company with respect to their environmental performance or who significantly stands to benefit from the activities that have caused the environmental harm or risk.'*

It is hard to see how primary producer landholders fit these descriptions however there is a significant risk that such landholders could be defined as related parties under the current wording of the Bill. This should be clarified to exclude such landholders.

AgForce also notes the Bill excludes internal review and appeal rights for a decision to require a person to give information relevant to the making of a decision under new section 363AB (whether a person has a 'relevant connection' with the high risk company). This appears to be contrary to the principle that legislation should make rights and liberties dependent on administrative power only if subject to review. This item has been noted in the explanatory note as an area not compliant with expected legislative standards.

There also appears to be no time limit on the powers being sought for Departmental staff to enter sites that are no longer subject to an Environmental Authority. Some limitation should be considered for inclusion.

The Bill is specific to Queensland and is not uniform with related legislation in other State jurisdictions. While it appears progressive and the explanatory note states *"Queensland appears to be leading in establishing chain of responsibility provisions for environmental obligations"* AgForce believes the Government's current understanding of the implications of doing this is not complete and has not been informed by sufficient consultation with potentially affected stakeholders.

AgForce also notes that due to the urgency of the Bill, consultation has been limited to just within government, again highlighting the lack of transparency afforded by the current Government to legislation relating to environmental matters, and the lack of full consideration of implications or unintended consequences for stakeholders, which in this case includes primary producer landholders.

Yours sincerely



Charles Burke  
CEO AgForce Queensland