Speech By

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MEMBER FOR GLADSTONE

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ENVIRONMENTAL PROTECTION (CHAIR OF RESPONSIBILITY) AMENDMENT BILL

Mr BUTCHER (Gladstone—ALP) (1.25 am): I rise to support the Environmental Protection (Chain of Responsibility) Amendment Bill 2016. I would like to take this opportunity as the chair of the committee to thank the secretariat of our committee: Mr Rob Hansen, Mr Paul Douglas, Ms Maureen Coorey and Ms Carolyn Heffernan. We did do a lot of work on this bill in a very short time, as the member for Burnett just stated. I think we came away with a pretty good report for the minister.

Queenslanders have had very clear views about the importance of protecting our unique natural environment. This came across very clearly in the submissions to our inquiry. Queenslanders also have very clear expectations of the role they expect government to play to ensure that businesses and companies that pollute and cause damage to the environment are held accountable for their actions and that they clean up whatever mess they make before they move on. Sadly, this has not always happened in Queensland. Our inquiry highlighted a litany of mine sites and other intensive industries where the owners have, or may have, defaulted on their environmental responsibilities, leaving a huge mess for the state to clean up. In the current resources downturn, this problem has become all too common.

The bill is clearly designed to equip the Department of Environment and Heritage Protection with the authorities and investigative powers to address these problems and to hold those responsible for environmental damage accountable—something virtually every stakeholder involved in the inquiry has supported. The committee also supports the bill's objectives, although we may differ in our views on some of the provisions. I am happy to hear tonight that the opposition have now worked this through thoroughly with the minister and it looks like they are accepting most of those.

The submissions and evidence from our public hearings have been invaluable to our work. As the chair of this committee, I sincerely thank everyone who took the time to share their views with us during our deliberations. The committee has recommended a number of amendments based on practical concerns raised during the inquiry. I believe that the amendments we have recommended will improve the provisions of the bill and help to ensure the risks of unintended consequences of the legislation are minimised. Once again, I am happy to hear that the minister has taken note of those and made those changes.

In the past 12 months, the Department of Environment and Heritage Protection has confronted increasing difficulties in ensuring that companies in financial difficulty continue to comply with their environmental obligations. This has included sites such as the Yabulu nickel refinery, the Texas Silver Mine and the Collingwood tin mine. The government has proposed urgent amendments to ensure that the regulator can pursue a chain of responsibility so that these companies or related parties can be held accountable for the cost of managing and rehabilitating those sites. Without additional powers in the Environmental Protection Act, the EP Act, the state will incur operational and financial responsibility for

sites in financial difficulty. The bill will deliver a chain of responsibility. New powers will equip the regulator to ensure that businesses and/or the related parties who comprise the chain of responsibility around those businesses must honour these businesses' existing commitments to prevent environmental harm and to rehabilitate sites, even if the business has entered into financial difficulty.

It will deliver stronger financial assurance arrangements. The regulator will have stronger power to require an appropriate up-front bond when there are changes to business ownership or when there are changes to a business's operations. Thirdly, there will be a faster responding regulator. New powers will equip the regulator to enter sites when a business has collapsed or handed back its licence to operate. If a business has failed to take steps previously demanded under a protection order, the regulator can then perform emergency works and recover its costs from a party in the chain of responsibility.

The committee heard a wide range of views about this bill. What is clear to me is that Queenslanders have very strong expectations of the government in acting to protect our unique environment. It is important to note that virtually every stakeholder involved in the inquiry supported the intent of the bill, even if they had some reservations about particular provisions. These concerns were primarily about providing greater clarity on who is a related person and the scope of that term, and potential enhancements to the drafting to remove uncertainty about how the provisions would operate in practice.

There were no submissions in defence of companies walking away from their legal obligations to properly manage and minimise their impact on the environment. The committee has made a number of recommendations which will improve the operation of the bill, and I am pleased that the government in its response has accepted the majority of these.

One of the issues raised by many stakeholders was the potential that some landowners, such as those where a resource tenure is in effect over the land in question, may be within the scope of the bill even though they have little or no control over what happens under that tenure. These landowners will now be excluded as well as native title holders or claimants and holders of Aboriginal or Torres Strait Islander land.

The bill will also require that the decision-making process by the department in determining a person's relevant connection to a company must have regard to any criteria stated in a guideline made by the chief executive. These guidelines will provide additional assurance that the intention of the bill will be clear to those administering it and that only those who ought to be held accountable will be.

A further amendment will reduce to 75 per cent the amount of financial assurance to be provided while the court considers a request for a review of an assessment of financial assurance. This is a very reasonable requirement given the potential for review of financial assurance amounts to be delayed for considerable periods, exposing the state to significant risk in the event of company failure. The requirement in no way fetters the discretion of the court in making a fair and independent assessment of the final amount.

The committee also received clarification that the amendments are entirely consistent with the responsibilities of executive officers under the Corporations Act 2001 and with the COAG principles on executive officer liability. The COAG guidelines recognise that serious damage to the environment poses the potential for significant public harm and is a compelling public policy reason for imposing liability on executive officers. The Environmental Protection Act 1994 already contains executive officer liability provisions precisely because they are designed to discourage significant public harm. These amendments are consistent with that approach. I commend the bill to the House.