Speech By

Hon. Dr Steven Miles

MEMBER FOR MOUNT COOT-THA

Record of Proceedings, 15 March 2016

ENVIRONMENTAL PROTECTION (CHAIN OF RESPONSIBILITY) AMENDMENT BILL

Introduction

Hon. SJ MILES (Mount Coot-tha—ALP) (Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef) (2.30 pm): I present a bill for an act to amend the Environmental Protection Act 1994 for particular purposes. I table the bill and explanatory notes. I nominate the Agriculture and Environment Committee to consider the bill.

Tabled paper: Environmental Protection (Chain of Responsibility) Amendment Bill 2016 [331].

Tabled paper: Environmental Protection (Chain of Responsibility) Amendment Bill 2016, explanatory notes [332].

I present to the House today a bill to amend the Environmental Protection Act 1994 so as to better protect the environment, the community and taxpayers from the decisions and actions of businesses that fail to take steps to meet their proper responsibilities.

There are two longstanding requirements of environmental law accepted by both sides of this House. They are that, firstly, intensive industries should be required to manage their operations so as to control their pollution and, secondly, that they should be required to clean up after themselves when their business concludes—that is, intensive industries should be required to rehabilitate and stabilise any sites upon which their businesses have operated when those operations come to a conclusion.

Over the past 12 months it has become clear that Queensland's current laws do not adequately ensure that major industrial or mining sites will always take a responsible approach to fulfilling their environmental obligations. This is particularly the case when operated by companies in financial difficulty. This problem is widespread. It has emerged at the Texas silver mine located in the electorate of Southern Downs; we have seen it at the Collingwood tin mine and at the Mount Chalmers gold mine—and these are just the recent examples. At these places Queensland has seen businesses closing their doors without completing the work required to rehabilitate and stabilise their site of operations and without leaving adequate funds available to allow this work to occur.

Right now Queensland is facing down the unacceptable prospect of the taxpayer being left to clean up the bill after the owner of the Yabulu nickel refinery. Any possibility that the Yabulu nickel refinery will be allowed to fall into disrepair should be utterly unacceptable to all in this House. The refinery is located one kilometre from the coast, right beside the Great Barrier Reef World Heritage area. Its tailings storage facility contains 3.2 billion litres of contaminated water and its brine pond contains a further 1.2 billion litres of contaminated water. This site requires regular active management to control risks to the environment. Every day contaminated water seeps from the tailings storage facility and this must be pumped back into the holding facility to prevent it reaching the Great Barrier Reef. Any possibility, however remote, that this site might be simply abandoned without any financial provision

being made for its rehabilitation must not be tolerated. As the Minister for Environment it is my priority to ensure that the refinery's tailings dams and pumping equipment are appropriately managed into the future.

The Palaszczuk government wants to ensure our Great Barrier Reef is protected from toxic discharge and the taxpayer is protected from having to foot the bill. That is why the government today presents amendments that will allow the Department of Environment and Heritage Protection to effectively impose a legal chain of responsibility for the prevention and remediation of environmental harm. These changes will mean that environmental responsibilities cannot be avoided even when companies are in financial difficulty. It is essential to introduce this legislation into parliament immediately to address the real prospect that substantial clean-up costs could be left behind by operators who have failed to clean up after themselves. This will send a strong message to individuals and companies: if you make a mess you clean it up; if you try to walk away from your mess we will impose a chain of responsibility to bring you back to clean up after yourself; and if you try to avoid your responsibilities by hiding behind elaborate, artificial corporate structures we will impose a chain of responsibility to reach beyond those contrived legal barriers.

This legislation seeks to remedy a longstanding problem which current circumstances have brought into the spotlight. These reforms are long overdue. The Environmental Protection (Chain of Responsibility) Amendment Bill 2016 proposes amendments to ensure we have the tools needed to make companies in financial difficulty and their related parties, such as parent companies, responsible for managing sites against risk of environmental harm and incomplete rehabilitation work. The bill will allow the regulator to take action before a company's financial situation deteriorates by requiring parties who are in a position of influence to take the proper reasonable steps to manage their facilities. The key tool proposed by the bill is to allow an environmental protection order to be issued to a party with a relevant connection to an environmental authority holder. 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 ability to influence environmental performance on the site, whether financially through the ability to give directions or otherwise. Examples of a related party under this test include parent companies or company directors. This means that a related party, like a parent company or a company director, can be held responsible for taking action to prevent or clean up environmental harm. In addition, where the state needs to step in to undertake this work itself or through contractors, the regulator can seek to recover the relevant costs. This is similar to existing provisions in the Environmental Protection Act providing for recovery of costs in association with a clean-up notice for contaminated sites.

This bill will allow this parliament to protect the taxpayer from being forced to pay for costs which other parties have allowed to accumulate over a number of years. The bill is designed to prevent any last-minute manoeuvring to avoid the effects of its provisions. I am proposing that certain provisions of this bill, if passed by this parliament, will take effect from today, the date of its introduction.

The government has a clear focus on parties who are actively avoiding their proper responsibilities. 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 and who in many cases have personally profited from the operations that have contributed to the environmental risk or harm.

To supplement these environmental protection order provisions, the bill also strengthens related provisions such as the evidentiary powers, financial assurance requirements and access powers of authorised officers. The bill improves the ability of departmental officers to access sites that are no longer in operation or are in administration. This will ensure that authorised officers have access to sites to monitor the risk of environmental harm in situations of insolvency and financial difficulty. Evidentiary powers are expanded in order to ensure that authorised officers have access to the information required to make decisions about the issuing of EPOs. Authorised officers will also be able to better gather evidence through strengthened legal powers to ask questions about alleged offences committed by an operator.

I am introducing this bill to the parliament to ensure that operators continue to meet their environmental responsibilities, even in situations of insolvency or financial difficulty, and that clean-up costs are not borne by the Queensland taxpayer.

The government's greatest hope is that the Yabulu nickel refinery will continue to operate and provide jobs for Queenslanders, whether that be under current or new ownership and management. However, should the worst come to pass, it should be for Queensland Nickel, Queensland Nickel Sales or their associated companies or officers to bear the cost of managing and rehabilitating the refinery. This should not be up to Queensland taxpayers. I commend the bill to the House.

First Reading

Hon. SJ MILES (Mount Coot-tha—ALP) (Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef) (2.39 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Agriculture and Environment Committee

Mr DEPUTY SPEAKER (Mr Elmes): In accordance with standing order 131, the bill is now referred to the Agriculture and Environment Committee.