

19 April 2016

Hon Anastacia Palaszczuk MP
Premier of Queensland
Level 15, Executive Building, 100 George Street
BRISBANE QLD 4000

Via email: thepremier@premiers.qld.gov.au

Dear Premier

Environmental Protection (Chain of Responsibility) Amendment Bill 2016 (Qld)

I write to raise with you the Australian Institute of Company Directors' (AICD) concerns with the *Environmental Protection (Chain of Responsibility) Amendment Bill 2016 (Qld)* (the Bill).

The AICD is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director development and advocacy. Our membership of over 38,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

The AICD is concerned that the Bill risks unintended consequences for the Queensland economy, including significant uncertainty for directors of organisations with Queensland operations. While we have raised these issues through the recent Inquiry into the Bill by the Queensland Parliament Agriculture and Environment Committee (the Committee), given the potential for broader economic impacts we feel it prudent to raise them with you directly.

The AICD appreciates the background to the draft legislation and is supportive of its general objectives, including that companies causing environmental impacts through their operations comply with environment protection orders and fund relevant remediation costs.

As we have outlined to the Committee, however, the Bill casts an excessively wide net through its broad definitions of a 'related person' and a 'relevant connection'.

The Bill would provide the Department of Environment and Heritage Protection (DEHP) with powers to compel a very broad category of 'related persons' to satisfy the environmental obligations of companies operating in Queensland. This opens up the potential of liability to directors, other officers and investors (amongst others), and contravenes principles underpinning corporate structures as well as important legal rights and principles.

Even if amended to accommodate the recent Committee recommendations, the Bill would create risks for directors of Queensland-situated companies about exposure to criminal and direct liability based on activities by companies with whom they have, or have had, governance roles. These liability risks would arise even where directors have taken responsible, appropriate and evidence-based decisions on environmental management and remediation issues, and where no culpability can be demonstrated.

**AUSTRALIAN INSTITUTE
of COMPANY DIRECTORS**

The Bill would create excessive uncertainty for those in governance roles and as such may act as a deterrent to board roles in Queensland operating companies. If passed, the Bill would also erode progress on the issue of director liability achieved by Queensland as part of the COAG reform of directors' personal liability for corporate fault.

In relation to the Committee report on the Bill, released on Friday last week, we note the Committee could not agree whether or not the Bill should be passed with a set of proposed amendments. The report outlines concerns raised by various stakeholders, similar to those I have raised above.

The AICD also sees potential for the Bill to act as a disincentive for investment in companies regulated by the Environmental Protection Act. We have encouraged consideration of alternative means to achieve the Bill's objectives.

I would be pleased to provide you or your advisers with a briefing on the AICD's concerns. Please contact me on (02) 8248 8446 or lpetschler@aicd.com.au, or Lysarne Pelling, Senior Policy Advisor, on (02) 8248 2708 or at lpelling@aicd.com.au for further information.

Yours sincerely



LOUISE PETSCHLER
General Manager Advocacy