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MINING AMENDMENT (DEVELOPMENT CONSENT) BILL 2013

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.43 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Mining Amendment (Development Consent) Bill 2013 amends the provisions of the Mining Act 1992 relating to the need for development consent before a mining lease is granted.

The Mining Act provides for the orderly administration of minerals titles as well as regulating mining activity on land in New South Wales.

Mining in New South Wales makes a major contribution to the State's economy bringing new investment, boosting regional development and job creation, as well as creating increased export opportunities.

Mining related royalties are a major contributor to State finances and, they in turn, contribute to investment in community infrastructure and programs.

A notable example of this is the Government's Resources for Regions program which is aimed at relieving infrastructure constraints and supporting New South Wales communities affected by mining. Whether directly or indirectly, we all benefit from a strong mining industry in New South Wales.

A provision in the Act has been identified as potentially affecting the integrity of the mining titles framework in New South Wales. It relates to the need for appropriate development consent before a mining lease can be granted.

There are two types of mining leases: a mining lease for minerals or a mining lease for mining purposes. Before either of these leases is granted, appropriate development consent or other planning approval must be obtained under the Environmental Planning and Assessment Act.

Turning now to the distinction between the types of mining leases. A mining lease for minerals allows the holder to prospect and mine across the whole area of the lease. It also allows the holder to carry out mining purposes.

On the other hand, a mining purposes lease does not allow for any prospecting or mining activity. What it does do is allow for works associated with extraction, such as building a road or a dam.

The validity of mining leases under the Act is being brought into question in pending court proceedings.

Although the Act makes clear that a mining lease for minerals permits the carrying out of mining purposes, it is not immediately apparent what constitutes appropriate development consent for this type of mining lease.

This is an unintended consequence of the amendments to the Act in 1996 that introduced mineral leases for mining purposes.

If the court were to find that development consent permitting mining purposes is not an appropriate form of consent for the grant of a mining lease for minerals, this would have far reaching and negative repercussions.

It would call into question the validity of most mining leases that exist today. It would also create unnecessary red tape for industry by effectively requiring any future mining projects to obtain a "patchwork" of different mining leases for one development consent area.

It could also result in significant job losses across the industry should mining leases be found to be invalid.

This would affect the current health of the mining industry and, indirectly, the community as a whole. Standing idly by and not addressing this issue will create sovereign risks for the State.

The Government is committed to preserving the status quo. The amendments will make clear that development consent for mining purposes can be an appropriate form of consent to enable the grant of a mining lease for minerals.

The bill will strengthen the titles framework under the Act by ensuring the security of tenure to current holders of a mining lease.

However, let me make it crystal clear. Under this bill a development consent permitting mining purposes can be an appropriate development consent for the grant of a mining lease for minerals.

However, such a mining lease would not allow mineral extraction unless a development consent is in place. If a person wishes to undertake extraction activities, that person must have—or apply to have—development consent that permits extraction.

These amendments in no way affect the requirements for both to have consent under the Environmental Planning and Assessment Act 1979.

In summary, this bill introduces very important changes that provide clarity and certainty to titleholders and the mining industry generally.

The bill will benefit the State of New South Wales by ensuring that the titles framework in the Act is preserved in its current form. It will allow for business as usual—a vigorous, healthy, active mining industry underpinned by a strong titles framework.

I commend the bill to the House.