

PROOF

MINING LEGISLATION AMENDMENT (URANIUM EXPLORATION) BILL 2012

16 February 2012 Page: 53

Bill introduced on motion by Mr Chris Hartcher.

Agreement in Principle

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [3.51 p.m.]: I move:

That this bill be now agreed to in principle.

The Mining Legislation Amendment (Uranium Exploration) Bill makes amendments to four Acts to remove the prohibition on exploring for uranium in New South Wales. While the amendments themselves are straightforward, they reflect the significant change in government policy in this State. For the first time in 26 years the policy on uranium exploration has been re-examined and revised to allow exploration for uranium. This policy change follows a request from the Commonwealth Government for New South Wales and Victoria to review their prohibition on uranium exploration and mining. New South Wales and Victoria are the only two mainland States to still have a prohibition on uranium exploration and mining. South Australia, Western Australia and the Northern Territory have uranium exploration and mining industries that make Australia the world's third largest exporter of uranium. Queensland's uranium legislation provides for both exploration and mining, but currently only exploration is permitted. In 2010-2011 exploration expenditure for uranium in Queensland was \$18 million. Internationally, many countries are turning to uranium as a low-carbon source of energy that can provide for their rapidly growing energy needs.

The DEPUTY-SPEAKER (Mr Thomas George): Order! There is too much audible conversation in the Chamber. Members who wish to have private conversations should do so outside the Chamber.

Mr CHRIS HARTCHER: Given this changing Australian and international scene, the New South Wales Government has reconsidered its long-held policy on uranium. We have decided that it is time for change. As a very responsible step, we will therefore amend the legislation to permit uranium exploration. This will provide us with a sensible way to find out if we have uranium resources and, if we do, their extent. Since the Uranium Mining and Nuclear Facilities (Prohibitions) Act was passed in 1986 there have been major advances in the safe handling of uranium. As well as very high standards of safety, very high standards of environmental management will be required. To enable exploration for uranium, amendments are required not only to the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 but also to other Acts and legislative instruments.

I turn first to the amendments to the uranium prohibitions Act. The bill will remove the prohibition in this Act on exploring for uranium. It is important for the House to be clear that the bill does not include provisions to permit the grant of a further assessment title or a mining title for uranium. The second Act to be amended by this bill is the Mining Act 1992.

This is because under the Mining Act a person must not explore for any mineral except in accordance with an authorisation for that mineral. Currently, the Mining Regulation does not specify uranium as a mineral. Therefore, the bill provides for amendment to the Mining

Regulation to include uranium as a mineral. With the grant of an exploration title, conditions will be imposed that the titleholder must observe.

The bill makes amendment to a further Act, the Radiation Control Act 1990. The Act does not apply to radioactive ore while it is being mined in a mine, as defined in the Mine Health and Safety Act 2004, or ore that is the subject of treatment. The Radiation Control Act does not specify that it does not apply to exploration for radioactive ores. The Act will therefore be amended to make this quite clear. There is a further legislative amendment to be addressed in this bill. The bill will amend both the Aboriginal Land Rights Act 1983 and the Mining Act 1992. The amendment will provide that the Crown has ownership of all uranium in New South Wales. The bill will vest ownership of all uranium in the Crown. It is generally accepted public policy that the exploitation of significant State resources should be regulated by the State and the proceeds applied for the benefit of the State as a whole. No compensation will be payable.

Crown ownership of minerals has been made universal in Victoria and South Australia by legislative expropriation of all minerals. In Tasmania and New South Wales this approach of legislative expropriation has been applied to significant resources on a selective basis. State ownership of minerals has had the important result that governments, rather than private landholders, determine the legal regimes governing mineral exploration and production. This is particularly important in the case of uranium. It should be noted that an amendment is also being made to the Aboriginal Land Rights Act 1983 to ensure that the principle that the Crown owns all uranium resources in New South Wales is comprehensive. The Government is making these ownership amendments to ensure that any uranium resources that are discovered are managed securely and safely. I have now addressed the proposed amendments to the four Acts under this bill.

The bill also proposes to amend the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. Currently, the State environmental planning policy applies to all minerals prescribed under the Mining Act but specifically excludes uranium. The bill removes that exclusion so the prescription of uranium as a mineral will flow through to planning policy. The effect of this amendment will make exploration for uranium permissible in most cases without development consent under part 4 of the Environmental Planning and Assessment Act 1979. Most exploration activities for minerals are permissible with environmental assessment under part 5 of the Act. Sensibly, uranium exploration will be treated in a similar fashion.

One final feature of the bill to note relates to the penalty for exploring for uranium without an exploration licence. The uranium prohibitions Act currently has a blanket prohibition on uranium exploration and mining. The bill removes from the Act the prohibition on prospecting for uranium. This leaves the penalty provisions of the Mining Act to apply. As exploration for uranium will now be permitted under the Mining Act, it is intended to make the penalty for doing so without an authorisation consistent with other minerals.

I referred earlier to the objectives of the Uranium Mining and Nuclear Facilities (Prohibitions) Act. I referred particularly to the Act providing for the welfare and safety of the people of New South Wales and the environment. The New South Wales regulatory framework meets the nationally agreed standards applied by all States and Territories for protecting health and safety. The Australian Radiation Protection and Nuclear Safety Agency [ARPANSA] has published nationally agreed standards for ionizing and non-ionizing

radiation protection in the National Directory for Radiation Protection. The directory applies to the mining and mineral processing industries and includes mining-specific standards. These mining-specific standards include a Code of Practice and Safety Guide for Radiation Protection and Radioactive Waste Management in Mining and Mineral Processing. This code and other relevant codes will be applied on New South Wales uranium exploration sites. The Work Health and Safety Act applies to all workplaces in New South Wales. Its requirements will be monitored and enforced on uranium exploration sites by experienced mine inspectors.

Uranium exploration also becomes subject to all the safety requirements of the Mine Health and Safety Act, through defining uranium as a mineral. Together, the two Acts will require explorers to identify hazards to health and safety and apply risk management principles to them. This includes carrying out risk assessments and implementing risk control measures. Mine safety inspectors routinely visit exploration sites to ensure compliance and assess safety management systems. The inspectors have strong powers to ensure compliance. These include powers to issue improvement, prohibition and non-disturbance notices and to take enforcement action.

The Mining Act also provides for conditions to be imposed on exploration titles. These comprehensive conditions address such matters as water, air and noise pollution controls, threatened species, vegetation clearing and rehabilitation. Following the grant of an exploration licence, most significant exploration activities require further environmental assessment and approval from NSW Trade and Investment. If approval is granted, additional conditions can be imposed to make sure the environment is protected. These conditions are in keeping with the potential impact of the exploration activity. Security deposits are also required to be paid before exploration activities can commence. The amount of the security is based on the estimated costs of rehabilitation of the site, should the explorer not fulfil its obligations. Further compliance checks and audits are carried out to ensure these requirements are being adhered to. Penalties can be imposed and work suspended if they are not. Any community complaints or environmental incidents are investigated.

Environmental management of exploration is not subject just to the Mining Act. Exploration is also subject to the Water Management Act. This provides for management of access to water and protection of groundwater. Further, the Government has also recently introduced limits to water licence exemptions for exploration activities. Should significant pollution breaches occur, the Protection of the Environment Operations Act 1997 can be called on for enforcement action. Taken together, these environmental management requirements will ensure that the environment is well protected during exploration activities.

The bill makes simple amendments to four Acts and to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries). The amendments will enable exploration for uranium to take place by removing the prohibition on it. The wider New South Wales legislative framework sets high standards for safety and environmental responsibility. This will ensure that uranium exploration is safe and environmentally responsible. The Government will ensure the wellbeing of the people of New South Wales. Further, by making these amendments we will move New South Wales into the twenty-first century. I commend the bill to the House.

Debate adjourned on motion by Mr Bryan Doyle and set down as an order of the day for a future day.