

**INCLOSED LANDS, CRIMES AND LAW ENFORCEMENT LEGISLATION AMENDMENT
(INTERFERENCE) BILL 2016**

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Bill introduced on motion by Mr Anthony Roberts, read a first time and printed.

Second Reading

Mr ANTHONY ROBERTS (Lane Cove—Minister for Industry, Resources and Energy) [2.45 p.m.]: I move.

That this bill be now read a second time.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 amends and clarifies the laws in relation to unlawful interference with mining and other businesses or undertakings. It will make necessary and important changes to the Inclosed Lands Protection Act 1901, the Crimes Act 1900 and the Law Enforcement (Powers and Responsibilities) Act 2002. This Government is committed to addressing the risks to businesses, protesters and the public posed by unsafe protest activities. These risky protesting activities are caused by a small minority who have shown a clear disregard for the safety of themselves and others. In November 2014 the Premier made an election commitment to bring in legislation to create a deterrent to illegal behaviour by protesters at mine sites. By community standards there are some actions that should clearly not be supported. Threatening the safety of others and causing disruption to legal business activities are clearly in that camp.

The changes made by this bill create a workable model that ensures that the ongoing protection of the right to protest is balanced with the need to protect the safety of others and the conduct of lawful business activities. The Government is committed to ensuring that people are able to exercise their right to communicate their opinions and ideas about matters of concern through peaceful protest. The right to protest is one that helps to hold members of this House to account. It is a tenet of our democracy and a right that we will continue to protect. This right, however—as with any right in a democratic society—must be balanced with the rights and interests of others and the community as a whole. The amendments made by this bill address concerns raised by business, protesters and members of the public about the risks that some protesters take that threaten the safety of others.

There are numerous examples of unsafe protest activities causing severe disruption to lawful business activity and those that are clearly unlawful as they threaten the safety of others. Examples of activities that threaten public and worker safety include a current prosecution that protesters entered a workplace and tampered with equipment being set for an explosives blast operation, putting themselves and workers at risk. The potential implications of that scenario are not worth imagining. In another example, protesters forced the shutting down of operations by hanging from a construction structure. Police rescue officers put themselves in harm's way to rescue the protesters. It is estimated to have cost the business hundreds of thousands of dollars in direct costs, such as making repairs and hiring rescue equipment as well as productivity losses. In a final example, protesters launched a coordinated attack on numerous sites by scaling coal loaders, locking themselves onto access gates and erecting structures to both hang from and block access to sites. That caused around six mines to halt operations.

Protesters at mining and petroleum workplaces have been charged with offences relating to trespassing, hindering operations, and endangering themselves and others. Those protests are unsafe for the protesters, workers at sites, the public in the near vicinity, and police and emergency

rescue officers. An array of people can be exposed to significant danger and harm during such protests. Unlawful disruption by protesters is also costly for business. Protesters have developed sophisticated tools, such as lock-on devices, which require rescue squad-type capability to remove them from plant or equipment without harm. There are also indications that protesters have engaged rigging experts to assist them in attaching themselves and hanging from large mining equipment such as coal loaders or structures.

There are plenty of examples of how protesters can lawfully voice their concerns and impact democratic protests. The Government as a whole hears loudly and clearly the various concerns about mining and petroleum projects. These concerns include loss of jobs in the mining and petroleum sector as well as concerns about environmental impacts. The messages clearly and articulately come through a variety of channels: media, direct contact by phone, letter and email with my office and other government offices, meetings, visits by Government Ministers and officers to regional areas, peaceful protest and structured campaigns—to name a few. This bill assists police to have the resources and powers they require to maintain public order and safety at all or any protest sites, including mines and petroleum sites. When large contingents of police or specialised rescue officers are required at a protest location these officers are not available for other duties. By reducing the likelihood of rescue officers needing to be called to the scene to separate a protester from being locked on, this bill increases the availability of these officers for other rescue and emergency recovery activities.

Mining sites are dangerous places, particularly for people who are not authorised to be on site. These kinds of unlawful activities cause undue risks to police rescue units that have to intervene, result in significant costs for businesses that are forced to halt operations, and create serious risks to the protesters themselves as well as to the public. The measures in this bill provide additional powers to police to proactively manage risky protesting activities, increase penalties for persons who unlawfully enter onto inclosed lands and interfere with, or attempt to interfere with, the conduct of a business or undertaking, and clarify the definition of a "mine" for the purposes of the Crimes Act 1900. I turn now to the content of the bill.

Schedule 1 to the bill makes amendments to the Inclosed Lands Protection Act 1901 to create an aggravated form of the offence of unlawful entry on inclosed lands. The maximum penalty for the aggravated offence will be \$5,500. The penalty will apply in relation to land on which a business or undertaking is being conducted and where the offenders, while on the lands, interfere with, or attempt or intend to interfere with, the conduct of the business or undertaking or do anything that gives rise to a serious risk to the safety of the person or any other person on those lands. Undertakings are business-like activities whether or not conducted for profit or gain. The reference in the new section 4B is taken to have the same meaning as section 5 of the Work Health and Safety Act 2011. The amendments also provide for alternative verdicts. The basic trespass offence under section 4 will be available as an alternative charge in trials for aggravated unlawful entry on inclosed lands where the court is not satisfied that the person has committed the aggravated offence.

Schedule 2 to the bill amends the Crimes Act 1900 to extend the meaning of "mine" in connection with the existing indictable offence of intentionally or recklessly interfering with a mine, which carries a maximum penalty of imprisonment of seven years. The new definition will ensure that the offence reflects the modern understanding of a "mine", which has changed significantly since the Victorian era. Importantly, the definition of a mine will be extended to include an extraction or exploration site for minerals, gas or other petroleum. It will also include a construction site for the extraction of these substances, as well as a former mine where works are carried out to decommission a mine or make it safe. This definition will ensure that the offence of intentionally or recklessly interfering with a mine applies to the entire life cycle of minerals and petroleum mining, from exploration to decommission, including the construction of the site and the remediation work to ensure the site is safe.

The bill also amends section 201 to reflect modern work practices where the ownership of property often does not rest with the mine or petroleum operator but is critical to the operation of the mine. Schedule 3 to the bill amends the Law Enforcement (Powers and Responsibilities) Act 2002 to confer additional search and seizure powers in relation to things used to interfere with a business or undertaking. The amendments provide police with the power to search and seize things without a warrant where a police officer suspects on reasonable grounds that a person has, or a vehicle, vessel or aircraft contains, anything that is intended to be used to lock on or secure a person to any plant, equipment or structure for the purpose of interfering with the conduct of a business or undertaking and that is likely to be used in a manner that will give rise to a serious risk to the safety of any person.

The bill also removes the limitations on the exercise of police powers to give directions in public places to prevent obstructions of persons or traffic, or harassment or intimidation of or fear to other persons, in the case of demonstrations, protests, processions or organised assemblies. A police officer will not be precluded from giving a direction in relation to any such demonstration, protest, procession or organised assembly if the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given, or to any other person. A police officer will also not be precluded from giving a direction in relation to any such demonstration, protest, procession or organised assembly that is obstructing traffic if it is not an authorised public assembly under part 4 of the Summary Offences Act 1988 or is authorised but the persons given the direction by the police officer are not obeying the terms of the authorisation.

These amendments enhance the enforcement of laws governing protests by providing higher penalties and stronger enforcement powers to deter unlawful protest activity that negatively impacts on businesses and the community. Increased penalties and police powers will help to deter unlawful and unsafe protest activities and enable mining and other businesses to conduct their activities uninhibited. However, at the same time, they enable people to exercise their right to communicate their opinions and ideas on matters of concern through lawful protest. I commend the bill to the House.

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