MINING AND PETROLEUM LEGISLATION AMENDMENT BILL 2017

Second Reading

Mr ANTHONY ROBERTS (Lane Cove—Minister for Planning, Minister for Housing, and Special Minister of State) (16:16): I move:

That this bill now be read a second time.

Good regulation is essential to enabling effective competition, innovation and flexibility. These principles extend to the safe and sustainable development of the resources sector. The resources sector reforms that we introduced back in 2015 were evidence-based and relied on independent expert advice from a range of sources, including: the New South Wales Chief Scientist and Engineer's independent review of coal seam gas; and the review of the land access arbitration framework by Bret Walker, SC. Since then we have continued to strive for high performance regulation.

The Mining and Petroleum Legislation Amendment Bill 2017 is a fine example of this Government's commitment to ongoing regulatory improvements. This bill introduces a streamlined approval process for ancillary mining activities, in order to create a more fit-for-purpose regulatory framework. Ancillary mining activities, previously referred to as "mining purposes", are the key activities, facilities and infrastructure used to directly facilitate primary mining operations. Examples include tailings, dams and stockpiles of displaced soil removed as a result of the mining process. These activities, of course, can occur within or outside the area of an existing mining lease, depending, of course, on the project requirements.

Under the current framework, mining operators may be required to hold and manage a separate title for each ancillary mining activity. This may involve anywhere up to 20 titles each incurring its own administrative cost and requiring significant time to manage. This bill will allow mining operators to consolidate multiple ancillary mining activities onto a single title, reducing costs and red tape for industry. However, the streamlined process does not jeopardise environmental protections or rehabilitation requirements. Regardless of the approval process, all applications for ancillary mining activities will be subject to a full environmental assessment by the Division of Resources and Geoscience. This assessment will include a number of components, including the collection of a security deposit and setting of strict and enforceable conditions to ensure that a mining operator has a clear objective in mitigating impacts on the environment.

In addition, these activities will need to comply with other planning and environment legislation and seek the relevant approvals where necessary, such as development consents and environment protection licences. The bill ensures that New South Wales continues to have world-leading environmental protection requirements in place for mining projects as well as for any activities that support these projects.

The DEPUTY SPEAKER: Order! There is too much audible conversation in the Chamber.

Mr ANTHONY ROBERTS: In the same way that these reforms are protecting the environment, they are also ensuring that landholders and communities that host mining projects are afforded relevant protections under the Act. This brings me to the next key element of the bill, which is about improving the current compliance and enforcement framework for mining and petroleum activities. The legislative reforms made in 2015 introduced enforceable undertakings and harmonised compliance and enforcement provisions in the Mining Act 1992 and the Petroleum (Onshore) Act 1991. As part of the Government's commitment to ongoing regulatory improvements, this bill will address minor gaps in the enforceable undertakings framework and strengthen provisions for false or misleading information offences across both Acts. The bill will require enforceable undertakings to be published, and will allow criminal proceedings for serious breaches of an enforceable undertaking to be commenced in the Land and Environment Court.

The bill will also clarify the law of agency as it applies to false or misleading information offences by making it an offence for a titleholder to allow its agent to knowingly or recklessly give false or misleading information on its behalf, unless the titleholder takes all reasonable steps to prevent this from occurring. The bill will also increase the maximum penalties for providing false or misleading information from $110,000 to $1.1 million for a corporation and from $55,000 to $220,000 for an individual. These amounts are consistent with other serious offences under the Mining Act 1992 and Petroleum (Onshore) Act 1991. The amendments are consistent with community expectations that providing false or misleading information in relation to mining and gas activities is a serious offence. I emphasise that maximum penalties for all resources offences are only sought for the most serious breaches of the law. The amendments do not impact the ability of the Resources Regulator for NSW to use a range of other compliance and enforcement measures where appropriate, in the circumstances of the particular case.

Finally, the bill will make machinery and minor amendments to improve the rigour of the current system for administering mining and petroleum titles. This includes allowing an application to transfer a title to be refused, if the proposed new titleholder does not provide adequate information in connection with the application. Specifically, this bill makes changes relating to applications for exploration licences over an area that is already covered by another title for the same mineral. The Mining Act 1992 already requires that the applicant provide the written consent of the existing titleholder where the application is over land that is the subject of another title. However, it also allows operators a small window—of 10 days—to provide the required information before the decision maker can refuse their application. This has created a perverse outcome enabling some operators to 'jump the queue' by applying for an exploration licence over another operator's title, without providing evidence of the other existing titleholder's consent. This bill ensures that the decision maker can refuse these applications without waiting for 10 days to pass. This Government is committed to a high performance mining and gas industry, supported by strong, transparent regulation. I commend the bill to the House.