

# MINING AND PETROLEUM LEGISLATION AMENDMENT BILL 2017

*First Reading*

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.**

*Second Reading*

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) ( 12:48 ): I move:**

That this bill be now read a second time.

This Government is committed to the safe and sustainable development of the resources sector. It has continually demonstrated this. There is no clearer example of this commitment than the reforms this Government delivered in 2015 when it overhauled an outdated and inefficient framework that had been in place for too long in this State. This inefficient regulatory framework was not capitalising on the benefits to regional communities that come from hosting resources projects and was not giving communities certainty that the resources industry was being held to account. The introduced reforms were evidence based and relied on independent expert advice from a range of sources. They included: the New South Wales Chief Scientist and Engineer's "Independent review of coal seam gas"; the independently chaired Coal Exploration Steering Group; and, examination of the land access arbitration framework by Mr Bret Walker, SC.

The Government did not rest following delivery of these reforms. This Government has continued to improve the regulatory framework to ensure delivery of the best outcomes for the people of New South Wales in terms of energy security, job opportunities and protection of the environment. This bill is an example of the Government's commitment to continuous improvement. This bill is about three things: enhancing environmental protections, strengthening compliance and enforcement powers, and improving the rigour of the titles administration framework. First, the bill is about ensuring the continuation of world-leading environmental protection requirements for mining projects, as well as for any activities that support these projects. Ancillary mining activities 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 can occur within or outside the area of an existing mine lease, depending upon the project requirements. Where these activities occur in the immediate vicinity of the mining lease area, the bill will ensure that the environmental impacts of these areas are regulated to the same high standards as when they occur within a mining lease area. This means that we will collect security deposits, impose rehabilitation obligations and apply the full suite of compliance and enforcement powers to those designated ancillary activities. In addition, these activities will need to comply with other planning and environmental legislation, and seek the relevant approvals where necessary, such as development consents and environmental protection licences.

While ensuring that we are improving the environmental outcomes of resources projects, we are also ensuring we are not creating additional red tape for industry. That is why this bill introduces a streamlined approval process for ancillary mining activities in order to create a more fit-for-purpose regulatory framework. The new approval process allows mining operators to consolidate their rehabilitation obligations for multiple ancillary mining activities on to a single title. Under the current framework, mining operators may be required to hold and manage the administration of a separate title for each ancillary mining activity that they rely on. This may be anywhere up to 20 titles, each incurring its own administrative cost and requiring significant time to manage. Instead, this bill will allow mining operators to consolidate multiple ancillary mining activities on to a single title and therefore streamline the routine administrative requirements, and reduce costs and red tape for industry. However, the streamline process does not jeopardise environmental protections or rehabilitation requirements.

Regardless of the approval process that a mining company chooses to suit their operational needs, all applications for ancillary mining activities will be subject to a full environmental assessment by the division of resources and geoscience in my department. This assessment will include a number

of components, including collecting a security deposit to provide assurances that the land and water impacted will be appropriately rehabilitated, and setting strict and enforceable conditions to ensure that a mining operator has a clear objective in respect of mitigating impacts on the environment. Any operator that fails to adhere to those terms could be subject to the full extent of the compliance and enforcement powers under the Mining Act, including facing a penalty of up to \$1.1 million. 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, including general immunity and compensation.

This brings me to the second key element of the bill, which is about improving the current compliance and enforcement framework for mining and petroleum activities. Our legislative reforms in 2015 included enforceable undertakings, and harmonising compliance and enforcement provisions in the Mining Act 1992 and the Petroleum (Onshore) Act 1991. As part of our commitment to continuous regulatory improvement and transparency, the 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.

Providing false or misleading information is recognised in New South Wales environment and planning legislation as a serious offence. However, under the Mining Act and Petroleum (Onshore) Act, the maximum penalties for this offence are currently lower than for the failure to lodge a report. They do not provide a strong deterrent. The bill will 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. These amounts also broadly align with penalties for false or misleading information offences under the Protection of the Environment Operations Act 1997, the Environmental Planning and Assessment Act 1979 and the Biodiversity Conservation Act 2016.

The bill also clarifies the law of agency as it applies to false and 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 amendments are consistent with community expectations that providing false or misleading information relating to mining and gas activities is a serious offence. I emphasise that maximum penalties for all resources offences are only sought for the most egregious breaches of the law. The amendments do not impact the ability of the resources regulator 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. This Government is committed to a high performance mining and gas industry, supported by strong transparent regulation. I commend the bill to the House.

**Debate adjourned.**