



Mining Amendment (Small-Scale Title Compensation) Bill 2014 (Proof)

Mining Amendment (Small-Scale Title Compensation) Bill 2014

Extract from NSW Legislative Council Hansard and Papers Wednesday 17 September 2014 (Proof).

MINING AMENDMENT (SMALL-SCALE TITLE COMPENSATION) BILL 2014

Page: 74

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [8.36 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Mining Amendment (Small-Scale Title Compensation) Bill 2014 amends the Mining Act 1992 and the Land and Environment Court Act 1979.

This bill implements the key legislative measures set out in the Government's Final Response to the Wilcox Report into Lightning Ridge Opal Mining.

The amendments establish a framework to streamline and clarify interactions between landholders and opal miners, particularly in Lightning Ridge.

The Mining Act is the primary piece of legislation regulating opal mining in New South Wales.

It establishes a titles framework specifically for opal mining activities.

Two types of titles are available under this framework—mineral claims and opal prospecting licences, which the Act refers to as 'small scale titles'.

The Lightning Ridge region is the heart of opal mining in New South Wales. It produces 95 per cent of Australia's black opals—the most valuable opals in the world and the official gemstone of this state.

A thriving tourist industry exists off the back of opal mining. Over 80,000 visitors, from all walks of life, visit each year.

Some come to try their luck at opal mining, others come to simply experience an outback mining town.

At the same time, the region is also home to vast tracts of grazing and cropping land, and has a long history of primary production.

This history is reflected in the name of the town.

It is said that Lightning Ridge got its name when a bolt of lightning struck a flock of sheep, killing over 200 and scattering the others in terror.

All honourable members should visit this area if they get the opportunity. It is truly a unique part of New South Wales.

There are currently around 3,200 small scale titles in Lightning Ridge on 26 properties. Some landholders literally have hundreds of titles granted over their property.

It is unsurprising, then, that there have been longstanding tensions between landholders and opal miners at Lightning Ridge.

Opal mining is also undertaken in White Cliffs, a small township some 300 kilometres northeast of Broken Hill. White Cliffs is famous for its white opal.

In contrast to Lightning Ridge, there are not known to be the same tensions between landholders and

opal miners in White Cliffs.

This is largely because, at White Cliffs, the vast majority of small-scale titles are granted over unoccupied Crown Land.

Despite the commissioning of four reviews, those opposite failed to adequately establish the tools to support landholder and miner dealings.

This Government has taken action and this bill is about implementing a solution.

Honourable members may recall that Murray Wilcox, QC, a former Federal Court judge, was commissioned to undertake a review into issues of concern about opal mining in Lightning Ridge.

In 2011, Mr Wilcox delivered his report with recommendations for resolving these issues.

In 2013, following an extensive consultation process, the New South Wales Government released its final response to the Wilcox report.

This bill implements the key legislative measures set out in the final response. These measures balance the interests of Lightning Ridge residents, farmers and miners alike.

I turn now to a more detailed discussion of the proposed amendments.

The bill amends the Mining Act to establish a standard compensation scheme for landholders affected by opal mining.

This implements a key recommendation of the Wilcox report. It is the centrepiece of the bill.

As announced last year, in our response to the Wilcox report, the standard compensation rate for the Lightning Ridge area will initially be set at \$100 per annum for mineral claims.

The rate for opal prospecting licences will be \$100 per annum plus 10 cents per hectare.

At this time there is no intention to set a standard compensation rate for opal miners in White Cliffs.

The bill enables the standard compensation rate to be indexed to keep up with inflation. Beyond that, the rate can only be varied every five years, after an independent review.

This provides certainty for opal miners. It will ensure the goal posts do not keep shifting.

The standard compensation scheme will not prevent parties from making their own arrangements for compensation.

Opal miners will be able to choose to either pay standard compensation or make a private compensation agreement with a landholder.

Standard compensation will be collected by Government and distributed to landholders.

This will provide a streamlined way of processing payments associated with opal titles for both landholders and titleholders.

If a landholder receives standard compensation and believes it is too low, they will be able to seek assessment by the Land and Environment Court.

The court cannot award an amount that is less than the standard compensation rate.

In the event there is neither a standard compensation rate in place for a particular area, nor a compensation agreement, a party can also ask the Land and Environment Court to determine compensation.

To complement the standard compensation scheme, the bill introduces a new process for granting titles.

The new process will ensure that standard compensation is paid or a private compensation agreement is in place before a small scale title is granted or renewed.

In practice, this means that before a decision maker grants a title, they will need proof that the applicant has paid standard compensation or made a private compensation agreement with a landholder.

An existing agreement between an opal miner and a landholder will be recognised for this purpose. However proof of this agreement will be required before a title can be renewed.

The new process will also ensure that landholders receive timely notification of the applicant's intention

to exercise their rights under the title.

The bill also allows the Minister, by order published in the gazette, to impose levies on opal miners, or classes of opal miners, for particular purposes.

The purposes for these levies are set out in the bill.

They include the provision and maintenance of roads servicing small-scale titles, off-title rehabilitation and environmental maintenance work, and the rehabilitation of mullock dumps.

Other purposes may be prescribed in a regulation.

The levies will enable these works to be undertaken on behalf of miners collectively. This is more efficient than each miner doing the work individually.

There is broad support from landholders and opal miners in Lightning Ridge for introducing these levies.

The work funded by the levies will benefit not only opal miners and landholders, but the broader community.

The bill enables levies to be targeted at a particular class of small-scale titles.

This will enable levies, for example, to be set in respect of Lightning Ridge only, and not White Cliffs.

This flexibility reflects that shared infrastructure needs can vary between areas.

The Government will administer the funds collected from the levies.

The bill establishes a process for people to apply for funding from the levy to undertake works.

Funding will be available if the works are consistent with the purposes of the levy, and are appropriate and reasonable for achieving those purposes.

The Land and Environment Court plays a central role in resolving conflicts between landholders and opal miners.

However, as noted in the Wilcox report, there is a general unwillingness to elevate local disputes to the court.

In its final response, the New South Wales Government proposed a range of measures to facilitate ease of use of the court.

As part of these measures, the bill amends the Land and Environment Court Act 1979 to introduce a mandatory conciliation and arbitration process for proceedings relating to small-scale titles.

If this does not resolve the matter, the parties will proceed to a normal court hearing.

This process will apply across Lightning Ridge and White Cliffs. It will enable opal mining disputes to be dealt with in a more informal and cost effective way

A similar process is already in place for environmental planning appeals.

Historically, around 1,700 mineral claims were granted in Lightning Ridge which gave miners the right to reside on the claim.

Several years ago, a program was established to phase this out by giving these miners a separate leasehold title to the land.

This involved paying holders of overlying western land leases to surrender parts of their leases, and then granting opal miners smaller, residential western land leases in those areas.

As part of this program, a levy was imposed on these miners to fund the associated costs.

While the program had widespread support, the levy lacked a legislative basis. The bill validates the previous collection and use of monies from this levy.

This bill addresses some key issues of contention facing the Lightning Ridge community. Issues that for so many years have been left neglected.

These changes balance the interests of opal miners and landholders alike.

Opal mining and agriculture are the lifeblood of Lightning Ridge. This Government is committed to the

prosperity and coexistence of both of these industries.

I commend the bill to the House.