

MINING AMENDMENT (SMALL-SCALE TITLE COMPENSATION) BILL 2014

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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 Resources and Energy, and Special Minister of State) [4.08 p.m.]: I move:

That this bill be now read a second time.

The Mining Amendment (Small-scale Title Compensation) Bill 2014 amends the Mining Act 1992 and the Land and Environment Court Act 1979. The bill implements the key legislative measures set out in the New South Wales Government's final response to the Wilcox report into Lightning Ridge opal mining. The amendments are intended to 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".

Lightning Ridge may be the birthplace of Crocodile Dundee but its most famous export comes from under the ground. The Lightning Ridge region is the heart of opal mining in New South Wales. It produces 95 per cent of Australia's black opals—one of the most valuable opals in the world and the official gemstone of this great State. A thriving tourist industry exists off the back of opal mining. More than 80,000 visitors, from all walks of life, visit Lightning Ridge each year. Some come to try their luck at opal mining; others come to simply experience an outback mining town.

The region is home to vast tracts of grazing and cropping land and has a long history of primary production. That 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 more than 200 and scattering the others in terror. I encourage members to visit this area at least once. It is truly a unique part of New South Wales. I was fortunate to visit Lightning Ridge this past weekend as part of its annual Opal Festival, where I crowned Skye Holland as the 2014 Opal Queen.

I met many people in Lightning Ridge. I pay tribute to some of those wonderful people—great leaders of that community and people who are passionate about seeing Lightning Ridge move forwards. To name a few, I acknowledge the work of Sebastian Deisenberger, the President of the Lightning Ridge Miners' Association [LRMA]; Maxine O'Brien, the Secretary of that organisation; and Ian Woodcock, the President of the Lightning Ridge Opal Festival. I also acknowledge some of the farmers that I met—Doug and Penny Lehmann, Rick and Helen Hall, Ross Slack-Smith and Wayne Dunford—at meetings facilitated by Danica Leys of NSW Farmers. I met many miners and farmers at Lightning Ridge. I thank them for their hospitality and for their ability to present their points of view on the matter of coexistence.

By way of background, there are around 200,000 small-scale titles in Lightning Ridge on 26 properties. Some landholders have hundreds of titles granted over their properties. It is unsurprising that there is a need for a streamlined regulatory framework to ensure there are positive relationships between landholders and miners. Opal mining is also undertaken in White Cliffs, a small township some 300 kilometres north-east of Broken Hill. White Cliffs is famous for its white opal and also for its local member, who is in the Chamber today. In contrast to Lightning Ridge, there is not known to be tension between landholders and opal miners in White Cliffs. That is because the vast majority of small-scale titles are granted over unoccupied Crown land at White Cliffs.

Despite the commissioning of four reviews, previous governments have failed to adequately establish the tools to support landholder and miner dealings. I proudly say that this Government has taken action and this bill is about implementing a solution. Members in this place may recall Murray Wilcox, QC, a former Federal Court judge who 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 the document entitled "**Final NSW Government Response to the Wilcox Report into Lightning Ridge**". 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 now turn to a more detailed consideration of the proposed amendments in the bill. The bill amends the Mining Act 1992 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¢ 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 be varied only every five years, after an independent review. This provides certainty for opal miners. It will ensure the goal posts do not keep shifting. I stress that 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 the Government and distributed to landholders. This will provide a streamlined way of processing payments associated with opal titles for both landholders and titleholders. If landholders receive standard compensation and believe 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 may 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 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 *Government 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. Once again, I cannot speak too highly of the farmers' representatives I met there and the representatives from the LRMA.

The work funded by the levies will benefit not only opal miners and landholders but also 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 a claim. Several years ago a program was established to phase this out by giving 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 moneys from this levy.

This bill addresses some key issues of contention facing the Lightning Ridge community, issues that for so many years have been 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 and to the fantastic community of Lightning Ridge. I commend the Mining Amendment (Small-scale Title Compensation) Bill 2014 to the House.

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