

**MINING AMENDMENT BILL 2021**

*Second Reading*

Resumed from an earlier stage of the sitting.

**HON NEIL THOMSON (Mining and Pastoral)** [2.01 pm]: Before the break, I was talking about some industry issues and concerns. Issues relate to opportunities as well. I had started to deal with the issue of opportunities that might exist in relation to serious regulatory reform. We know that regulatory approvals have multiple entry points, and we have multiple agencies involved in approving the processes associated with mining, as they do with other aspects of the economy of Western Australia.

A suggestion was made in one of the submissions about a mining development enclosure proposal creating an opportunity for the Department of Mines, Industry Regulation and Safety to work with the Environmental Protection Authority, the Department of Water and Environmental Regulation and the Department of Planning, Lands and Heritage to get some alignment and holistic documentation that would cover projects from operations through to closure and relinquishment, and avoid the onus of navigating the process residing solely with the proponent. That was a comment in one of the submissions to an earlier iteration of this bill. These are industry concerns. I think, overall, there is support from the industry for this change, but concerns exist with regard to where the onus is at the moment and how seriously the regulatory reform is being undertaken at this time.

Another issue was raised, and this is something that I would also like to address in Committee of the Whole—the cancellation of approvals without providing a reason. There is a provision in the bill that will provide the ability to cancel approvals, and I would be interested to know the government’s reasons as to why approvals can be cancelled without providing a reason. There might be reasons why, so it would be good to hear in this place the government’s explanation as to how an approval can be cancelled by the minister without providing reasons. I wonder whether reasons would have to be provided.

**Hon Matthew Swinbourn:** Member, what clause are you talking about, just to be clear?

**Hon NEIL THOMSON:** We will do that during Committee of the Whole, if that is okay.

**Hon Matthew Swinbourn:** I was just trying to give the advisers an opportunity, if you could identify the clause.

**Hon NEIL THOMSON:** If the parliamentary secretary does not mind, it is on my big list. I have many yellow tags. It is probably a little difficult for me to recall off the top of my head.

**Hon Matthew Swinbourn:** That is fine.

**Hon NEIL THOMSON:** If I can assist once we get to the committee stage, as soon as possible I will look that up as well. Obviously, the advisers are listening, so they may know the answer. Hopefully, they will.

**Hon Matthew Swinbourn:** They might. They are a lot more knowledgeable than I am, that is for sure.

**Hon NEIL THOMSON:** That is right—you and I together. That would be useful.

The Association of Mining and Exploration Companies recommended that that practice not be implemented and that the minister should continue to publish reasons why a cancellation has been issued.

Some of these concerns are not unfounded. It is worthy of discussion. I am sure that other members in this place will raise matters on some of the communications that we have received from the community. Along with the concerns that I have raised, I am sure there is a desire to have some clarification going forward.

Earlier I mentioned the process that I am more familiar with in the planning space. I gave the example of the strategic assessment of the Perth and Peel regions. Effectively, the delegation of environmental approvals to the state is still underway. I hark back to my background in regulatory reform. I point to the COAG agreement sometime back when a number of principles were outlined on how regulatory processes in jurisdictions should be developed. I will not go through all the principles. We know that the number one principle is a case for action, which will be explained more in response. In principle 5, the agreement states that regulatory processes in their jurisdiction are consistent with —

providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;

I printed out the soon-to-be-old provisions, but they cannot be recorded in *Hansard* as they comprise a pretty thick tome of the marked-up copy. A number of the old provisions will be deleted upon passage of this bill and its promulgation into law after the regulations are finalised, I assume. I think the important matter here for the regulator and the regulated parties is that there is clarity around the policy intent. We all know that in high-level terms, we need to reduce the amount of double handling or triple handling by regulators and the intervention by regulators into the operations of mining operations, particularly prospecting. That is clear, but the expected compliance

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requirement is probably still to be determined. Of course, the response from government will be that until we have regulations, that will not be determined. With the passage of this bill, we will be passing laws, hopefully today, to achieve an outcome, but there is still a lack of clarity around the expected compliance requirements, how they will play out, and particularly the onus of compliance and how that will be assessed by the regulator, if there is a conflict. If something comes up that is deemed to be in breach, how will that be assessed and how much guidance and consistency will be given to the industry in the development of its own programs of work and plans that it has approved in the process? That part has yet to be achieved, and in that sense, by supporting this bill we take it that the government is acting in good faith that that will be achieved.

I am very interested in looking at the steps that go beyond this and I am certainly very interested in the level of feedback from industry about the development of regulations and the regulations in practice. I think that raises an issue about how the government will manage that process and with it, whether the government will be open to some sort iteration within that process so that we get it right for industry. Sometimes, even the best minds in agencies that can be found in government would be challenged to identify every contingency for every scenario that exists in industry land. It is because, as I said earlier, industry is an extremely varied entity. It ranges from people out there drilling, operating with small rigs, all the way through to massive mine sites where multibillion-dollar companies have been operating in situ in that environment for a long time. They are very different in the way they operate. That feedback needs to be provided.

This approach seems to be the way of government at the moment. It creates some risk into the future. We all know about Henry VIII clauses and the potential of regulators to go beyond the intent of the legislation. By making legislation less prescriptive, we increase the risk of some of that happening as well. That is also a challenge and we should make sure that there is a control mechanism or some way of feedback provided by industry to ensure that we do not end up with overreach with some of those decision-makers who might be looking at a program presented by a proponent. I hope there is consistency and a lot of key guidelines around that.

In summary, we support any red-tape reduction process. The opposition acknowledges the challenge faced by government with this massive boom in the industry. We understand the huge number of approvals that have to be dealt with. It is acknowledged that there is also a cost-recovery element in here; that is something else that needs to be considered. I suppose it raises the question whether there will be any impact on cost. A reduction in red tape will hopefully reduce the need for people to handle regulatory approvals. Will there be any sort of metric? I suppose the two major metrics from the industry's point of view are, first, the timeliness of approvals and, second, the cost of approvals. With regard to timeliness, we would all hope that the Mining Amendment Bill will ultimately reduce the time frame for approvals. But from a cost point of view, there is a risk that the cost of those up-front planning processes could increase with maybe the potential for a decrease in the cost of the application processes. Certainly, nothing has been said about that in the presentations given by government on this bill or in its explanatory memorandum. I assume that if this bill achieves its intent, it will not impact on cost. If there is an overall impact on the cost of preparing for an approval and the cost of getting an approval through the process—the two distinct elements of cost, one being internal to the organisation seeking the approval and the other being the interaction that organisation has with the regulator—noting that there is already a cost-recovery model for those approvals, then one would hope that there would be a very big benefit in terms of a reduction in the time line for approvals. That has piqued my interest in terms of how these approvals are then reported and how we assess and monitor that over time, noting the backlog in the system in recent times due to the incredible demands placed on government.

These are the issues to be considered. As I said, we support the Mining Amendment Bill 2021. After other members have had their opportunity to speak and we go into the committee stage, I flag that I will have a number of questions. If the parliamentary secretary can work with me, we can try our best to go through this in a structured way, noting this challenge that I have—I am sure that others could do a much better job—with the deletions throughout the bill as we step through it and then the insertions in one place. It was a challenge to get my head around all those ins and outs, one could say. I will be relying on the interaction for practical purposes to make sure that we do a proper job of scrutinising and properly assessing the changes and at least get their impacts on the public record so that those watching on will feel that some of the matters have been aired and that they have garnered some clarification from our dialogue.

I reiterate that we support the bill. Thank you very much.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [2.19 pm]: Thank you, Acting President, for the opportunity to address some of the issues around the Mining Amendment Bill 2021, noting of course that there is also a Mining Amendment Bill 2022 on the notice paper.

**Hon Matthew Swinbourn:** It's not announced yet.

**Hon Dr STEVE THOMAS:** It has not arrived here yet. The parliamentary secretary raised the interesting point that the house that shall not be named, that other place—I do not know that I would get away with calling it Hogwarts, but let us see how we go —

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**Hon Matthew Swinbourn:** I think the indication is you can't.

**Hon Dr STEVE THOMAS:** I probably cannot, no.

**Hon Matthew Swinbourn:** If anywhere is Hogwarts, it is here.

**Hon Dr STEVE THOMAS:** No, no. We are much higher than that, surely. Come on; lift, parliamentary secretary. We have got to be at the peak of legislatures!

**Hon Darren West:** This is the magic Faraway Tree.

**Hon Dr STEVE THOMAS:** We are going back in history now. I read that book when I was very young. Holy mackerel! Most younger members do not remember that particular book. Was it Enid Blyton? Yes. It is from many years ago. Hon Samantha Rowe knows it. In her wild past she read that one.

**The ACTING PRESIDENT (Hon Peter Foster):** Member, noting that it is Thursday and we may be a little bit tired and distracted, if we could return to the bill before us, that would be greatly appreciated.

**Hon Dr STEVE THOMAS:** Thank you, Acting President. It is the unruly interjections from the other side that make life interesting sometimes.

**The ACTING PRESIDENT:** Perhaps refer your comments through the chair.

**Hon Dr STEVE THOMAS:** I will, Acting President.

I will reference the contributions of the members in that other chamber that shall not be named, because I thought it was interesting that about eight, nine or 10 government members made speeches on this bill. I note that one member out of those nine or 10 speakers addressed the bill and the rest of them addressed the wonderful contribution of the mining industry to the state of Western Australia. That probably behoves the opposition in the upper chamber to make a very brief contribution on the contribution of the mining industry to not just the economy of Western Australia, which it underpins, but also the budget and the cash flow to the state government.

**Hon Kyle McGinn:** Say "royalties"—say the word.

**Hon Dr STEVE THOMAS:** I accept that government members are very keen for us to discuss the level of contribution that the mining industry makes to the coffers of the McGowan government. The royalty flow from iron ore alone has been over \$10 billion a year over the last couple of years. Cash has flowed to the government. I was very pleased to read in the contributions of government members of that other house their recognition and acknowledgement of how much the mining industry contributes to the state because it is absolutely responsible for the McGowan government's budget surpluses. It is responsible for the position in which the McGowan government finds itself.

**Hon Kyle McGinn:** Solely responsible?

**Hon Dr STEVE THOMAS:** It is a good question, honourable member. The budget surplus last financial year was \$5.8 billion. How much more were iron ore royalties compared with the average year? If the average is \$5 billion to \$6 billion, how much more were the royalties that came in on top of that? If they were \$11-odd billion, there was between \$5 billion and \$6 billion worth of additional royalties and a \$5.7 billion surplus. How much did the mining sector —

**Hon Kyle McGinn:** In the 2011 mining boom, how much was your profits?

**Hon Dr STEVE THOMAS:** I was not in power in 2011, so there is no point asking me that question.

Obviously, the \$6 billion additional surplus is from additional royalties from the mining industry. It is nearly a \$6 billion surplus. Even government members should be able to manage the mathematics of that! It is a very important industry. I am sure that the minister, coming from the north west, understands the importance of the iron ore royalties rolling in and filling up the money bin. He is well aware of that proposal. It was great to see. It was very pleasing to see seven or eight members of the Labor Party in the lower house telling us how important the mining industry was. As I read through the debate in *Hansard*, I did not see that any of them thanked the mining industry for the government's budget surplus. It is probably one of those times when you have to read between the lines. It is a very important industry that has not only underpinned the economy of this state, but also held up the Australian economy. It certainly has lifted the current government to a position that it could not have found itself in without the mining industry. It is absolutely a highly important contributor to the Western Australian economy. I am pleased to see today that we in this august chamber have an opportunity to acknowledge that, as it was almost done in the other chamber that shall not be named. I thought it was important to raise that, which should make the second reading reply speech more interesting.

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Apart from simply confirming that the opposition supports the bill, which has been put forward already, another thing that I think is absolutely worthy of spending time to congratulate the government on is a statement that can be read in the second reading speech delivered by this excellent parliamentary secretary not long ago —

**Hon Matthew Swinbourn:** That's the end of him.

**Hon Dr STEVE THOMAS:** That is the end of him. Sorry, I was just praising you again. Your preselection is looking as good as that of the Minister for Emergency Services!

The parliamentary secretary said —

The amendments will modernise activity approvals under the Mining Act and embed a risk-based, outcomes-focused regulatory framework.

I have to say that that sentence would be described in Sir Humphrey Appleby terms as brave. I give some credit to the Minister for Mines and Petroleum and, in this august chamber, the parliamentary secretary who has responsibility for the bill. Moving to a risk-based assessment process is an excellent outcome, but it is also a little brave. A risk-based outcome is designed to allow development in a sensible way whilst acknowledging the risk. Industry does that all the time, and obviously business does it, too. Governments used to do that regularly, but it has been avoided for a long time. The structure that we have set up around the public service, in my view, has moved far away from a risk-based assessment to what I call the no-risk-based assessment. It is very difficult to get a department or a public servant—no insult intended—to take a risk and make a decision that carries that associated risk with it, because it is very easy in the current climate for people to seek to blame and not allow those decisions to be made based on the acceptance of some risk.

I suspect that both sides of politics are a little responsible for this because over many years in this adversarial system in which we find ourselves—I think it has become more adversarial and more media and social media-driven, and less constructive over the decades that I have been involved in it—anything that goes wrong elicits calls for an immediate demand by the other side for accountability and the sacking of a minister or other people. It sounds silly to say that in a political forum, but the system has become so oppositional that it has become unwieldy, to some degree. I think that it has moved government away from risk-based assessment across the board, and that is a shame, because I think that we miss massive opportunities across government when we avoid risk-based decision-making and simply go to risk-averse decision-making. That is where we are at the moment. It is not just us; I think it also applies to the public service, in which often the people who get to the top are sometimes the very best in this modern system of demonstrating risk aversion—never taking a risk and therefore never delivering significant change, but also never making a mistake. I think that we face that issue in a lot of our legislation. We are so frightened of that risk that we become change-averse as well as risk-averse. I commend the government and the minister on shifting to a risk-based approach in this bill. I think that is a particularly good outcome. I do not know whether the Minister for Mines and Petroleum, Hon Bill Johnston, who is driving this process, is doing so out of a sense of duty, or perhaps—dare I suggest—he might be coming towards the latter stages of his career and is less frightened of the political fallout and more interested in actually getting a result. If that is the case, good luck to him. If that is the case, again, he is to be commended for the process.

**Hon Kyle McGinn:** He has been working very closely with the mining industry.

**Hon Dr STEVE THOMAS:** That does not necessarily mean that he is staying on past the next election. I am going to say nice things about him, which will hopefully kill off his preselection, along with the parliamentary secretary and the Minister for Emergency Services. I will get Hon Dan Caddy to the top of the ticket yet, if I keep working at it! I think it is a really positive move on his part.

**Hon Matthew Swinbourn:** He's a brave minister.

**Hon Dr STEVE THOMAS:** Thank you, parliamentary secretary; I agree. The bill before the house today shows — Several members interjected.

**Hon Dr STEVE THOMAS:** Hello—they are squabbling over the top spot on the unified ticket now, Acting President. This could end anywhere! I probably should have spoken before lunch.

I congratulate the minister and the parliamentary secretary, because I agree with the parliamentary secretary. What has been proposed requires a little courage within the political spectrum—a little bit of backbone—so well done to the minister for that. It is not the easiest thing in the world to introduce a risk-based process in a risk-averse, oppositional political system, and, in my view, a risk-averse public sector. It is certainly a blame-averse public sector and political system. I think that, to the credit of the minister, all of that stands in the bill before the house.

Of course, as part of that process, I think that we should identify, acknowledge and accept that risk. I am not inclined to let the government off the hook and say, “We accept that it's risk based, and that's great, but let's not talk about it.” I think that part of being honest about the fact that I think the risk-based system is a good system is that

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we can talk about the risk in a positive and acceptable manner. I look forward to that debate probably a little bit more in the committee stage of the bill.

Some of that risk features in probably the most important part of the bill, which is the introduction of new part 4AA, which occupies clause 34 and about half of the bill that sits before the house today. That is the new automated authorisation and the eligible mining activity framework.

As I understand it, the intent as put forward in both the parliamentary secretary's second reading speech and the explanatory memorandum is to get those simple and time-consuming but fairly obvious applications through the system in a much timelier manner. I think that is a very worthy cause. I think that is a good intent for the vast majority of the bill that we are talking about. The way the government is proposing to do this is that for a fairly simple application, there will be a fairly simple and automatic response. As long as an application comes within certain parameters—it is a simple application, it is not too complex, and the expected impacts, particularly environmental, are not too serious—there will be something like an assumption of approval. There will be an automatic approval, but the system will allow other processes, if required, to occur after that. That is basically the risk-based approach that the government is taking—I wish it well with it—but let us focus on what the risks might be.

In the first instance, from my perspective, the biggest risk is that the government has yet to define which applications, and under which circumstances, will be able to be lodged through an eligible mining activity framework. This comes back to a number of statements. In his second reading speech, the parliamentary secretary stated —

The specific detail of the activities to be considered an “eligible mining activity” and standard conditions will be prescribed in supporting regulations and will be subject to a separate consultation period following passage of these amendments.

The focus is around encompassing the risk that this chamber will take if it supports the risk that the government is taking with the Mining Amendment Bill 2021, because the government is saying, “We will have a fast-tracked approvals process for simple applications”—which I absolutely agree with—“but what qualifies as a simple project and what conditions might be automatically applied to that simple project will be the subject of a whole new system, and we'll do that by regulation down the track.” That is the Henry VIII provision that has become a trend of modern government across the board. I see a lot of that going on at the moment: “Here's a good overarching principle”—as we say, the devil is always in the detail—“but we will provide the details at a later date once we have discussed what those details might look like with industry and impacted groups”, which, I presume, will include environmental groups and others.

This is the critical part of the debate. I like to give credit to the Labor Party where it is due. I noticed that 10 or so lower house Labor members spoke about this bill. Most of them, particularly those who have mining activities in their electorate, just talked about how good the mining industry is. Some of them gave a history of their grandfather's interaction with the mining industry, all of which is fine, but we take matters more seriously in the house that seriously reviews legislation. One member, the member for Thornlie, actually addressed the bill, for which he should be congratulated. He made this very pertinent point. I do not often quote members of the government, our opposition, except when they have said something silly during question time, but in this case it is worth putting back in. He said on 16 June 2022 —

These amendments are predicated on the fact that we must have a strong understanding of where the environmental risks or operational risks to the community might be. Where those risks occur, we can be sure that those cases will in fact go through a more thorough and rigorous level of assessment than these amendments are designed for as these amendments are designed for those low-risk cases.

That is a particularly good contribution because it encapsulates the concerns about which some of us have been receiving emails. Often the best way to deal with this process is to address those concerns, not ignore them, but to do so without necessarily agreeing with them. The point made by the member for Thornlie is absolutely accurate. It will be critical to decide which projects will be approved to go through this automated system, remembering that it will have an automated outcome—that is, a presumption of approval unless something goes wrong.

In the debate in that other house, the Minister for Mines and Petroleum made a variety of contributions that addressed some of these things. I apologise; I have stretched into Hon Colin de Grussa's space. He gave various examples of how this might go ahead. It came up during the debate that a likely example would be exploration activity that is occurring on previously cleared land. I think the example the minister gave was a drill on the back of a truck that is pulling in on a road, going into a cleared pasture and drilling down at that point; the impact of that is very, very small. Once the truck leaves, the footprint is remarkably small. I was going to say it is two feet by two feet, but that is wrong; I will say 60 centimetres by 60 centimetres. We need to make sure that the processes around the legislation are focused on those parts of projects and projects that are low impact.

We might have a bit of debate once we get into the committee stage about the definition of low impact et cetera. I am not attempting to drag out debate on the legislation unnecessarily, but I think there is an opportunity to just

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confirm that. The minister, sorry, the parliamentary secretary—I gave him a promotion there already!—may well talk about this in his second reading reply. Watch out, minister! Making the focus of this legislation on those areas for which the impact is minimal will be absolutely critical. I think it will ease many of the concerns if the debate that we have on this piece of legislation demonstrates to people that they need not be concerned. What concerns are out there? Some of the concerns relate to the additional capacity for miners to access private land for exploration. My reading of the bill is that the rights under the Mining Act that mining companies have for exploration are effectively replicated. It is not as though they can go to places they could not go to before and suddenly access them. That is my reading of the bill. The parliamentary secretary in his response might like to either agree or correct me on that process. Part of the issue, of course, is that this bill brings in lots of parts from different places. It is not the easiest bill in the world to read.

There are many things in the Mining Act. I must admit it has been many years since I read the Mining Act from one end to the other. It is like trying to read the Environmental Protection Act; it takes someone a few nights because they fall asleep just trying to read through it. For the most part, many of the things in this bill already exist in the Mining Act, so there are not a lot of new things. For example, mine closure plans exist under the Mining Act, so mining applications, as I understand it—if I am wrong, please correct me—already require a mine closure plan; it is simply in a separate section of the act.

This bill will not grant additional powers to mining companies to go into people's back paddocks; they can already do so. That is not to say that in some circumstances people do not like that mining companies can already do that, but that is a debate for another day. It probably does not help that there is a view in the community, which I think is accurate, that the rules are unfair and different when they are applied to private land versus public land. Again, in a fraternal way to try to progress the bill, my unsolicited advice to the government is that some acknowledgement around this process actually humanises it a bit. It is true that the Mining Act currently treats state land differently from private land. An example would be a farmer or landowner. I have a vested interest as my wife and I have a hundred acres in Donnybrook. It is our little piece of paradise. Under the Mining Act, if a mining company thought there was something valuable under there and it was under an exploration licence—if it was determined that the area could be explored—it would be very difficult to stop. I will come back to the south west in a minute because there are differences between different geographical regions. My understanding, from reading the bill, is that there will not be a significant difference between what is currently empowered under the Mining Act and what will be empowered under the bill before the house, which will amend the act, with the exception of a few bits. That includes the deemed automatic approval under proposed section 4AA, which will be inserted by clause 34. Even in the bill before the house there is a question around —

**Hon Matthew Swinbourn:** That is a part.

**Hon Dr STEVE THOMAS:** Sorry, it is proposed part 4AA; the parliamentary secretary is quite right. Whether it is the Mining Act or the Mining Amendment Bill, there will be exclusions to the approvals process. The minister might also provide in his reply a quick overview of how —

**Hon Stephen Dawson:** You called him a minister again.

**Hon Dr STEVE THOMAS:** Minister again! I have been called the Leader of the House twice this week, so I think there is something in the water.

**Hon Stephen Dawson:** In your dreams!

**Hon Dr STEVE THOMAS:** Come on! It is only a matter of time, Minister for Emergency Services.

There will be concerns about environmental impacts as part of this. I am trying to reassure people, and I think the debate should reassure them, that those impacts will still be managed under existing legislation. It is important for the parliamentary secretary to explain which parts of environmental protection within the approvals process will be voluntarily passed, via the Mining Act, to the Department of Mines, Industry Regulation and Safety. I know he has good advisers here who will be able to give him that information. I think that will be useful, firstly, because that exists now; that is not a new power that will be imposed by this bill. There are already approvals processes around clearing et cetera that are passed to the Department of Mines, Industry Regulation and Safety and are not necessarily assessed by the Environmental Protection Authority. There are other components that are assessed by the EPA. There are bits and pieces. I ask the parliamentary secretary to give a little outline of that to give people some confidence that this is not about reducing environmental regulation or approvals. I think the member for Thornlie got that absolutely right.

The classification of reserves that are excluded comes under sections 24 and 25 of the Mining Act 1978. The minister might add to this, but under section 24 of the Mining Act —

**Hon Colin de Grussa:** You did it again!

**Hon Dr STEVE THOMAS:** Sorry. I keep looking at the minister but I am talking to the parliamentary secretary.

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**Hon Matthew Swinbourn:** I am here.

**Hon Dr STEVE THOMAS:** I would move the parliamentary secretary across—I really would.

**Hon Colin de Grussa:** Who would you move the other way?

**Hon Dr STEVE THOMAS:** Let us not go there.

Section 24, headed “Classification of reserves”, states —

(1) The classes of land to which this section applies are —

- (a) land that is in the South-West Division of the State as described in Schedule 1 to the *Land Administration Act 1997*, or in the local government district of Esperance or Ravensthorpe and that is reserved under Part 4 of that Act and classified as a class A reserve ...
- (b) any land comprised within —
  - (i) a national park ...
  - (ii) a nature reserve ...

We have already spoken about paragraph (c). It then continues —

- (d) land within the South West Mineral Field that is a State forest or a timber reserve ...

That also relates to paragraph (da). It then continues —

- (e) land that is a water reserve or catchment area ...

The government is quite good at excluding applications for mining on land that it controls, but it does not necessarily provide the same protection to private landowners. I ask the parliamentary secretary to comment on how that is perceived in the community. I accept that the government probably needs to have further controls over that land, but I have to say that in my experience of being around Parliament for 18 years, the capacity for extraction of any kind of resource from land controlled by the Department of Biodiversity, Conservation and Attractions—DBCA, until we finally get it changed—is an immensely problematic and tenuous affair, whereas mining on private land appears to be a much easier process. One of the issues is that the government needs to give itself a bit more leeway, a bit more flexibility, to not approve mining activity in its area. I think that would also be worthy of a contribution. If the parliamentary secretary could give us an indication of how he intends to manage that, I think that would be good.

Most of the other bits I am happy to debate in the committee stage of the bill, noting that other members wish to speak. I think those are the critical parts. As I say, I support the government’s intent. Although we are being brave, I think some reassurance about how the community and the environment will be protected is required. I absolutely agree with the members in both chambers who have said that we need to stop getting in the way of minor development that promotes exploration and the mining industry, but I would expand that beyond the mining industry. I would apply the same rules to the development industry. We have become incredibly risk-averse with development. Members might remember speeches I have made in this house about planning legislation and the need to get government out of the way. If the temporary measures that were brought in during COVID work, why would we come back, a couple of years later, and debate the same things all over again? It makes sense, in my view, to try to minimise government’s unnecessary regulatory impact, and I think that absolutely applies in this case.

I understand the parliamentary secretary’s intent, and I think it is good. In fact, it is not only good; it is brave. Please pass on my commendations to the Minister for Mines and Petroleum. However, everybody needs to be brought along as part of the process. I have raised what I think are the significant issues, and I look forward to the committee stage of the bill. I hope we can provide some reassurance to the community that, for the most part, what is proposed is not different. Again, I think the consolidation of rules and regulations from multiple titles into a single document is really good as long as it works, but we need to be careful not to replace a 10-page document with a 100-page document. I think it is going to be very hard to significantly improve it while ensuring the detail is sufficient, because most of what is in there is in there for a reason. It will not be the easiest thing, but let us do that in the committee stage. I think that will be easier. Well done, parliamentary secretary. This is a good bill. If he keeps up the good work, he will be moving across as a minister anytime now!

**HON WILSON TUCKER (Mining and Pastoral)** [2.53 pm]: I rise to make a few brief comments in support of the Mining Amendment Bill 2021. I will not rehash what has already been said. I do not have a problem with the bill. My interpretation is that the intention of the bill is fairly lightweight. As has been noted, the heavy lifting and the rules, as such, will be part of the regulations, which will come at a later stage. The bill will set up a framework and a skeleton of a system to automate the approval process for low-risk mining activities. As a former software engineer who may be going back to that profession in two and a half years, I do not have a problem with automation.

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I think it is a good thing. Humans are error prone and certainly open to bias. The more we can automate, streamline and reduce red tape the better, in my book.

Parliament does not have visibility over the regulations, and I will certainly have some questions about some of the regulations when we go into the committee stage. I will share a software analogy with members because I think they enjoy my software analogies.

**Hon Darren West:** They're very interesting.

**Hon WILSON TUCKER:** Thank you for the support.

We can compare an act with a software application. When I write code, I compile it into machine language. That is put into binary and then I basically control the CPU operations. The benefit of this is that I when I make a change, I compile it, which is typically quite an expansive computational exercise. After that, I set it out and it sits there until I need to make another change. This act will be similar to that; it is basically setting an underlying blueprint or application, if you will, that does not necessarily change very often. The other comparison to draw is in the regulations, which are like variables of the system. A user can input a string or a number, or whatever it might be, into a system. If that system has already been compiled, it will do some operations on those variables as they come in and then the user will get an output from the system. Regulations are much like the variables of a system. There are pros and cons when we talk about variables going into a system. The variables themselves can be such that they are out of the range that the engineer originally created for the system, so the engineer needs to put in some checks and balances, and define constraints and rules for these variables to ensure that the system is operating as intended.

I am curious to hear some general commentary from the parliamentary secretary, in response to this debate or at the committee stage, about some of the pros and cons of the regulations. I think this has been touched on by Hon Dr Steve Thomas as well, but, in a general sense, this is something we continually see. We certainly saw it with the Aboriginal Cultural Heritage Act. The overarching framework came down the line in the form of a bill and after it achieved royal assent, we got into the meat of it. Unfortunately, Parliament does not have much exposure to regulations. They are tabled and we get a chance to look at them and potentially disallow them, but we do not get a chance to debate them. There are pros and cons to the approach taken in the software analogy and there are certainly pros and cons to this approach as well. The variables in the system and the rules are fundamentally important, so I think that it is important that there is equal consideration for the stakeholders who are coming to the table and who are impacted by this legislation when these regulations are created and drafted. I will certainly ask some of those questions during the committee stage as well.

I will leave it there so that we can jump to the committee stage. The other point that I will talk about in the committee stage is whether there is any overlap with Aboriginal cultural heritage. I understand that some of the terminology in the bill has been updated because it conflicts with the Aboriginal Cultural Heritage Act. I am curious about how the bill will ensure that Aboriginal cultural heritage is not violated by the green-lighting or automation of low-risk mining activities. Do we have an overarching blueprint of WA land that has been zoned in accordance with the legislation so that this system has a view of the green-lit areas, if you will, that have already been inspected and therefore do not have any issues with Aboriginal cultural heritage? We can certainly get into that during the committee stage, so I will leave it there. I support the bill and I look forward to the committee stage.

**HON DR BRAD PETTITT (South Metropolitan)** [2.58 pm]: I rise to contribute to the Mining Amendment Bill 2021. I support that amendments need to be made to this bill. I certainly support the efforts to improve what I think we all agree to be an outdated bill. Ultimately, I hope this will result in greater transparency and more effective —

**Hon Matthew Swinbourn:** Sorry, member, do you mean “amendments to the act”? I think I'm getting a bit confused.

**Hon Dr BRAD PETTITT:** Yes, sorry. Thank you.

Unfortunately, I am not sure that this will be achieved by the legislation before us. I have noticed—others have said this as well—that there is a concerning trend with matters being pushed to regulations rather than being dealt with in legislation in this Parliament. We dealt with this issue quite a lot in debate on the Aboriginal Cultural Heritage Bill 2021 last December, and I think it applies to this bill as well.

I am also concerned that the intention is to streamline the approvals process for eligible mining activities. What that will look like will be, once again, left to the regulations. The scope of the types of activities affected, and the conditions under which those activities will be controlled, are to be determined entirely through the regulations. The environmental implications of the amendments cannot be determined, of course, until some details of the contents of the proposed regulations have been provided. Not surprisingly, this has concerned many in the community. I have certainly been contacted quite a lot about that. It is one thing to acknowledge that the government has a clear majority in both houses and it can put forward and pass unamended whatever legislation it wishes to, but a deeper concern is that it puts forward legislation and then punts the key elements down the road to regulations. This is concerning in terms of both transparency and the potential implications of how it will play out in the community and



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the environment. I do not know, maybe the parliamentary secretary can advise whether the Environmental Protection Authority was consulted during the drafting of this bill. That is of interest to me.

There are two possible outcomes from this bill and the future regulations. Depending on the regulations, the first outcome is more positive—I think we have heard this from speakers before—in that we will get rid of some pointless red tape, which adds no value. I fully support that. None of us want to see churn for the sake of churn and bureaucratic processes for the sake of bureaucratic processes. That is useful and good, and if these regulations are done well, we could have unchanged or even improved environmental outcomes from exploration activities—but that is not clear, of course. Good red or green tape can offer protections.

There is a legitimate concern that if done differently, the regulations could also lead to an expanded scope to carry out activities without adequate environmental controls, which would be virtually certain to lead to adverse environmental outcomes. It is not entirely clear to me what the problem is that the government is trying to solve with this bill. It was neither clear nor evident that mining companies were having difficulty gaining approvals for eligible mining activities.

**Hon Kyle McGinn:** They are.

**Hon Dr BRAD PETTITT:** If they are, as the interjection determined, is that simply a public service resourcing issue or is it a proper process issue? Again, it is a little bit opaque, given that there will be regulations about how that will play out, but it is fair to say that there is already a fair amount of community concern around the limited opportunity it currently has to object to mining applications. Many of us were contacted in the last month by concerned community members—many who reside in the south west and the great southern—who have objected to the multiple applications for mining exploration in their region. Community members are concerned about the potential implications of this bill and the unknown regulations to come.

I worry that this government is overly enthusiastic to facilitate mining that has the potential to cause environmental harm and minimise the opportunities for community objection. Many in the community have written to me with their concerns about the bill before us today. They are concerned that the government will cut the community out of the process. I want to read out some of the emails sent to me this week. I want to thank every single community member who took the time to share their thoughts with me.

I will start with Trudi. Trudi wrote to me —

I live on the South Coast near Albany where there have been a number of applications for an exploratory licence submitted just this year. This is very concerning not only to me but everyone in my community.

...

Please don't allow DMIRS and the mining companies to make it easier for exploratory licences to be approved and harder for everyday people to voice their objections.

Similarly, Donna from Margaret River said —

The impact of mining is felt by the environment, local government, community and individuals, not just the back pocket of the directors and shareholders of that company ... Please realise that this earth isn't here for profit, it is part of our world, not now and the future. Each change has an impact, and the choices around that change should not be ruled by the mining companies.

Carol, who has lived 28 kilometres out from Albany towards Denmark for the last 23 years, wrote —

During this first half of 2022 there have been three mining exploration applications submitted in this area. In which I have objected to two. I was overseas when the second mining application was made public.

Though the vigilance of the Torbay Catchment Group locals have been alerted to the fact that the Mining Act will be debated ... of great concern is that there are amendments to create an automated system for mining approvals ... giving applicants for mining activities automatic approval with standard conditions. Why does Parliament want to weaken the opportunity for the community to object to any mining exploration application?

Finally, Pip in Torbay said —

I am feeling the impact of mining exploration tenements in the area I live in. The burden is mentally and emotionally very heavy. So many people (including my partner and I) have spent many years of their lives developing their properties / businesses, and spent their life savings on their supposedly secure freehold land only to find out that mining has pretty well all the rights, and freehold landholders have very few.

Some of the people who wrote to me this week are signatories on the petition that I tabled in June, which had 605 signatures and called for amendments to the Mining Act 1978. They want amendments because they note the flaws in the existing legislation, and yet, despite wanting amendments to the act, not one of the emails I received supports what is before us.

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I will remind members of the petition that was read in this Parliament in June. I will not read it all, but the key elements were that petitioners asked the Legislative Council to —

... review the Mining Act 1978 and Mining Regulations 1981 with regard to:

- extending notice of mineral exploration licences to all landholders and other stakeholders in the proposed area irrespective of depth,
- reducing the complexity involved in the lodgement of objections to such applications, and
- creating exclusion zones to protect existing environmental, social and economic activities.

I think those 605 signatories raised some important issues. It is because of this and a lack of certainty and clarity about what the regulations might be that I find myself unable to support these changes in their current form. It would have been better if, in amending the Mining Act, the government had—as the petitioners requested—made it clear where mining will and will not be considered and made the objections process more transparent and accessible.

Of course, new minerals will be a really important part of the clean energy transition that we see coming up. We will need more mining, and we will need to support and enable it. That is a good thing. What is not a good thing is the sense that many community members—certainly, the community members whose emails I read—feel it will be increasingly ad hoc, not regulated and not actually giving private landowners some of the security they deserve. Although I appreciate that this legislation will pass, I think some changes are needed to give greater certainty. In many ways, the best ways to avoid bureaucratic processes are to define things up-front, to be really clear about where mining should and should not happen, and to have a proper and clear consultation process around how people can be involved and when. Part of the concern around this is that it is not particularly clear because it is all in the regulations.

To finish, I think that there was an opportunity here to get an outcome that would have been better for the sector, the community and the environment, and one that could have given greater certainty to all. The fact that the detail will be largely in the regulations will not do that and I am concerned that this opportunity is not being realised. I hope that the parliamentary secretary will be able to give me some assurances about this part in his response, but the feedback I have had from my constituents is of great concern and I do not support the bill.

**HON KYLE MCGINN (Mining and Pastoral — Parliamentary Secretary)** [3.11 pm]: I am really pleased to make a contribution to the debate on the Mining Amendment Bill 2021, and I will probably go through some of what has already been said. Firstly, I will add a bit of clout to the comments of the hardworking parliamentary secretary, as well as those of the opposition's spokesperson. It is good to see this bill come on. Obviously, the Mining and Pastoral Region covers 2.4 million square kilometres of the state and has a significant amount of mining; hence, I felt compelled to talk about the bill today. Right across my electorate, there is mining of all forms and shapes—iron ore, gold and rare earths. We are also about to see in Kalgoorlie the first cracking and leaching plant in Australia from Lynas Rare Earths. It is easy to say that since I was elected in 2017, mining has been a massive part of understanding this job and understanding the value of mining to the state of Western Australia. I would like to think that I have got a pretty good handle on that now, after five or six years of getting around this massive electorate. One thing that I have noticed about the minister is that he has not been shy about coming forward with the mining industry. He has had the portfolio since 2017.

**Hon Dr Steve Thomas:** I think you'll find that he had it in about 2013 in opposition.

**Hon KYLE MCGINN:** Yes, but I meant in government. He had the portfolio a lot earlier in opposition. That has given the mining industry a lot of stability, which is really good. I know that whenever something is happening in the mining sector across this state, the minister is there, front and centre, particularly in the goldfields. Even Hon Neil Thomson would have to acknowledge that the minister is a regular visitor to our electorate.

**Hon Neil Thomson:** When he puts the power on in Kalgoorlie, that's a very good outcome.

**Hon KYLE MCGINN:** Wow—once again, it is just negativity! How many people turned up to the member's forum? Was it two people? That is right; it was two people. It is funny that the member opposite has an innate ability to be negative about anything in this state. It is absolutely unbelievable, but I am not surprised. Members will be on the opposition benches for a very long time if they keep up the racket with their preselection numbers.

I want to get back to what I was talking about, which is the mining sector and its importance in WA. I agree with what Hon Dr Steve Thomas said. There are a lot of reasons why the mining sector is important, and I will say the word “royalties”. Royalties are great for Western Australia, but what is also great is a government that has good financial management. That is something that this government has that the last government did not have. If we add that together, what do we get? We get a beautiful, strong, safe state that is heading in a good direction.

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One of the things that I obviously have a big interest in is shipping. We talk about the mining industry and the red tape et cetera that this bill is seeking to deal with. Let us look at the shipping model. Uber-style shipping has been mentioned to me by BHP, Rio Tinto and the like. Uber-style shipping relies upon foreign vessels that are sitting offshore. Companies put on a computer app that they have this much tonnage that needs to be in China by this date.

**Hon Neil Thomson:** That'll be a real friend to the mining industry. Are we going to have State Ships running all of our iron ore out of the state?

**Hon KYLE MCGINN:** Wow—the member is so uneducated! He should have listened to what I was about to say before he jumped in with that silly comment. I was going to say that there is a very unreliable shipping fleet. It is not a loyal shipping fleet either, because a lot of the time it is manned by flags of convenience, which the member would not know a thing about. His former federal government did a good job of destroying Australian shipping—let us be honest about that. There is also a lower standard. We have all heard about the horrific situations on ITF vessels, such as deaths happening at sea. There was the “death ship”, the *Sage Sagittarius* on the east coast, of which the captain was a gun runner who killed a member of his crew. It came alongside in Queensland and, when the investigation was going on, it went on down to Newcastle and the engineer was pushed over the rail, 10 metres, to his death. When the vessel was on its way back to Japan, the investigator was put through a crusher and killed.

There are a lot of issues with shipping in the mining industry, and there needs to be some hard thought about the sustainability of shipping. The opposition has said how important our resources are; we need to have a closer look at how we are getting it from Australia to overseas. Back in the 1950s and 1960s, it was not State Ships, as Hon Neil Thomson just spurred off from the hip about. Australians used to be on ships that went overseas. We actually took our exports overseas, which was good, because the money came back into Western Australia, whereas the money no longer comes back in once ships hit the ports.

I have talked to a lot of mining companies in my electorate, and obviously “red tape” is a phrase we hear all the time. It was hard to understand Hon Neil Thomson, but he said something about the government’s trend towards reducing red tape. I thought that was a fantastic statement; I thought it was the best thing he has said in this house since he has been here! The government has been focused on reducing red tape and ensuring that we can get exploration happening, get to work, and get out there and get the job going. I thought it was great to hear the opposition finally acknowledge that—a bit of positivity! It was difficult to understand Hon Neil Thomson, but I am sure it will come up in *Hansard*!

Hon Neil Thomson also carried on about regulation processes and what they will be after this bill is enacted et cetera. That was interesting, because —

**Hon Neil Thomson:** They were relevant comments.

**Hon KYLE MCGINN:** I am getting to why I think what the member said was wrong. He is unable to understand that this government consults; it goes out and it listens. We need only look at the Aboriginal Cultural Heritage Amendment Bill and what is happening right now, with the amazing Hon Rosie Sahanna going around, consulting, talking about regulation and working with the stakeholders. It is brilliant. That is how governments should work, and that is how the minister operates. That is why the hardworking parliamentary secretary can stand up in this place and be as confident as he is about this bill: because we get out there, and we consult.

A member interjected.

**Hon KYLE MCGINN:** Not this parliamentary secretary—no-one has said that about me, yet! Let us just leave that to Hon Matthew Swinbourn!

I find it intriguing to look at Hon Bill Johnston’s reign as Minister for Mines and Petroleum. I point to the many times I have seen him come out to the goldfields to sit down and meet with the big mining companies, the Chamber of Minerals and Energy and the various chambers of commerce and industry. But he also makes sure he has space in his diary to meet with prospectors down in Boulder; he sits with them and talks about all the issues that the prospectors have.

**Hon Neil Thomson** interjected.

**Hon KYLE MCGINN:** Sorry? It is all right; the member will learn one day that consultation means everyone.

That minister sits down and talks to the prospectors, and he goes through their issues one by one, and they love having him out there. Even the mayor comes to talk to him as well, and it has been really good. The prospectors love the fact that the minister listens to the little guys and girls as much as he listens to the top end of town. The member has fears about whether the bottom end of town or the big end of town are going to be unfairly disadvantaged; I am reassured that the minister has been out there, talking with big and small mining companies, and with prospectors. I think it is brilliant to have a minister who can do that. The opposition could learn a lot if it were to watch how Hon Bill Johnston operates.

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I think the mining industry has shown it respects the minister for the fact that he is listening. For example, I know Bill Johnston as gone to the Diggers and Dealers Mining Forum every single year. Not so long ago, in a first of its kind, we saw Premier Mark McGowan deliver the keynote speech at that forum, which is unheard of. It was because the mining industry had been fearful and scared when the former federal government made the decision during the COVID pandemic to shut down the resources sector. The then federal Liberal–National government wanted to shut down the resources sector, but the Premier came out and said, “We are absolutely not going to have that uncertainty—absolutely not!” Unlike members opposite, we have a bit of clout over here. We had a bit of a go at the federal government, saying that there is no way we wanted to see our resource sector crumble like that. The resources industry said, “You beauty; we’ve got a government that actually stands up for us—a government that actually cares, and a government that actually understands”, unlike some of those members opposite who just listened to the former Liberal–National government and whatever it said. That is all they did. They listened to people like Barnaby Joyce. Was it Brendon Grylls who proposed a mining tax? How does that sound? Was Hon Neil Thomson a big supporter of that tax? Was he out there beating his chest and protesting against any of that stuff? I bet he was not.

Several members interjected.

**The DEPUTY PRESIDENT:** Order, members! There has been a fair bit of latitude during the debate so far. I remind members that we are debating a bill called the Mining Amendment Bill 2021, and ask that we draw our remarks back to the bill.

**Hon KYLE MCGINN:** Deputy President, I feel as though I am on the stream of the mining industry and the mining bill. I will try my best to get back to it. I will start by streamlining through to what this bill is doing in respect of approvals.

I remember being at the Diggers and Dealers Mining Forum two years ago, I think. Kalgoorlie Consolidated Gold Mines staged a big event alongside the Super Pit. That was back when Saracen Mineral Holdings and Northern Star Resources had just come back into play. Hon Peter Collier would know how great it was to see two Kalgoorlie boys buy back KCGM. It is now owned by people who have grown up in Kalgoorlie and been to the Western Australian School of Mines, which is brilliant. They wanted to expand on an area near the lookout to go back to the vein. They said that the government was quick to work with and to approve plans as fast as it possibly could because it understood that exploration would be critical to the company getting back on its feet and getting the economy going. I think that has flowed through ever since, with the government working with industry to ensure that we cut that tape and get exploration going.

We provided extra money to the exploration incentive scheme—another scheme that should be commended. Yes, we did. I know we did. I saw Hon Colin de Grussa shrug his shoulders. I think the former government had an election commitment to do that, but a party has to be in government to deliver that. We are in government; the opposition is not. We can deliver things. Members opposite can scream at the top of their lungs. We ensured that the exploration incentive scheme, which was a really good scheme, received extra funding. It is good for small, medium and big companies.

There is much exploration going on now. It is not just about gold. WA is mining cobalt and nickel, and all these things are happening out in the goldfields, which is fabulous. Providing a streamlined approach is really important.

Just to be clear, this bill is supported by the mining industry. The peak body supports it. It has not just been thrown together. As I have tried to frame in my speech, this bill has been a work of art by the minister working with industry. It is the perfect way to put it together. That is how it must be. It cannot just be dictated; it needs to be discussed. I am sure Hon Neil Thomson will add his flavour to it during the committee stage—we will see where that goes! Let us be very clear that the Association of Mining and Exploration Companies was very supportive of this bill, and it wants to see it go through. I hope that is the avenue that Hon Neil Thomson is going down, because industry wants this. I hope he is talking to industry, not just reading the little briefs that come through from the Chamber of Minerals and Energy and bodies like that. I hope he is out there talking to mining companies about how this legislation will impact them on the ground. I remember the briefing note on the gold tax that Hon Robin Scott stood up and read out. Hon Colin Tincknell read out the same one. It was absolutely hilarious. Hon Neil Thomson had to be here to understand, but he was not.

Hon Wilson Tucker mentioned that he loves automation. I do not share that view, although I would if we produced the automation. Members need to look at the fact that we need to build what is replacing jobs. I say this from personal experience; it is a personal view. I lived in Karratha and saw Kmart bring in its five-finger discount automation machines. I call them that because people use them to rip off Kmart. I remember going to Kmart and seeing high school kids working there after school and on weekends. Those were gateway jobs for further employment. As soon as automation came in, Kmart had only one manager and there was no longer any gateway employment.

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When someone googles where the automated machines are being built, they will see that they are being imported already built. We have to have a serious conversation around building the automation, because, funnily enough, we create it here and we have the inventions here. We have some of the smartest innovation in mining in the world, which is absolutely identified by the world, but it only goes as far as creating it, and then we do not build it and mass produce it. That is a concern. When we see automation coming into the industry with automated trucks, companies have been able to hide the cost of labour based upon retirements and streamlining. If they automate a section over here, a lot of people are made redundant or go to another site. It does not look like the company is reducing the labour pool, but they are actually reducing the labour pool.

I think this is a very good speech, although I see Hon Neil Thomson shaking his head. Automation is quite important. It is important to ensure that we keep a number of people in the work pool and we do not reduce ourselves out of a job. The reality is that if we do not create automation in Western Australia, where will it be created—overseas? What will bring it in? It will be flag of convenience ships without any Australians on board. Where will it end? There is a big conversation coming around that, Hon Wilson Tucker, so that when we introduce it, we do not shoot ourselves in the foot. It is important. People are playing PlayStation games at the airport! They are controlling huge iron ore machines in the Pilbara. That seems to be good. I saw plant B at Wickham, which is just a monster of a site. To know there is no-one operating it, and that they are all sitting at the airport on PlayStation controllers, is unbelievable. I would like to know who made the PlayStation controller. It was not us. That is something we need to look at as well.

I have touched on royalties and financial management.

**Hon Dr Steve Thomas:** Go again!

**Hon KYLE MCGINN:** I could go again if the Leader of the Opposition likes!

Hon Dr Brad Pettitt, who is away on urgent parliamentary business, touched on the environment, looking at reducing red tape, and referred to green tape et cetera. We cannot just look at the Mining Amendment Bill and say, “Where’s the green in it?”, because a lot of work is happening, particularly in national parks, marine parks and the Aboriginal Heritage Act. A lot of work is happening around protecting the environment. Does the member not agree?

**Hon Colin de Grussa** interjected.

**Hon KYLE MCGINN:** No, not you, Hon Colin de Grussa. Sorry. I am just getting this headshake up the back, and it is almost as though Hon Neil Thomson does not agree that work has been done on the environment. I would be shocked if the member looked at the work that has been done by this government and did not notice that it is a lot more than has happened in the past.

Sometimes Hon Dr Brad Pettitt can be a bit aggressive. In the last term of government, Hon Dr Steve Thomas, we debated a motion raised by the Greens to completely abolish the oil and gas industry. There was no real looking into what that would look like and how we would replace the jobs and keep the economy going. Hon Tim Clifford raised that motion, I believe.

**Hon Dr Steve Thomas:** He had a few on a similar vein.

**Hon KYLE MCGINN:** Yes. I remember talking to Hon Tim Clifford and saying, “You can’t just come out and say you’d destroy the oil and gas industry. Do you know how many jobs there are in Western Australia, and you’re not replacing them?”

**Hon Wilson Tucker:** There’s not that many in the gas industry, member.

**Hon KYLE MCGINN:** No, there is not in the oil and gas industry.

**Hon Wilson Tucker:** No, in the gas industry.

**Hon KYLE MCGINN:** I am talking about the oil and gas industry. The member is referring just to gas. We have four gas buggies up north that run interstate and overseas that have seafarers on them. We have the Woodside gas plant. That has a few jobs on it. We also have a 1 500-man shutdown crew that goes up there every three months for shutdowns. I would actually say there are a fair few jobs in the gas industry.

**Hon Wilson Tucker:** There are about 2 000.

**Hon KYLE MCGINN:** That does not include the casual short-term shutdown crews. There are 1 500 workers in just one shutdown. For example, member, the workers’ accommodation was built in Karratha specifically for a 1 500-man shutdown for the gas plant. Operationally, I think there are a few hundred workers, but suddenly there can be an influx of 1 500 to 2 000 workers. I would argue that there are a lot more jobs in the industry and when that is added to oil industry jobs, the numbers are pretty good. Hon Tim Clifford wanted us to wipe the slate clean and

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start with renewables straightaway. The transition is happening, but we cannot just walk in and abolish an industry like that. I wanted to say that to Hon Dr Brad Pettitt who is away on urgent parliamentary business.

I thank the very hardworking parliamentary secretary for bringing in the Mining Amendment Bill 2021. I look forward to its passing and to the mining industry getting more of an opportunity to streamline and deal with the issue of red tape. The industry has raised the issues with the minister and the minister has listened. I want to reiterate that the minister has been listening to and talking with prospectors, small mining companies, middle-sized mining companies and the top end of town. It is important to note that the feedback I get from the goldfields mining industry is that we have a minister who listens to and works with the mining industry.

**HON DR BRIAN WALKER (East Metropolitan)** [3.31 pm]: I have only a few words to say on the Mining Amendment Bill 2021. I was very pleased to hear Hon Kyle McGinn talk about streamlining his way through the bill, but I do not see that happening. Most of the points that I wanted to make have already been covered.

I have looked at the blue bill and, in this particular case, the red deletions in that blue bill and I question again the green facilities that we have. I noticed that on a consistent basis the red exclusions frequently mention trees. The blue insertions do not mention trees but the red exclusions frequently mention trees. What have the trees done to upset the government so much that it does not want to include them in saving the environment? It may seem to be a small point, but it makes me wonder what else we might not be looking at.

I listened to and took on board everything Hon Kyle McGinn said about the mining industry. It also has to be said that the Legalise Cannabis WA Party will be supporting this bill. But, as Hon Dr Brad Pettitt pointed out, we have had a number of communications from the people who own the land on which mining has to then take place who feel that they are not being listened to. The mining sector has been listened to, absolutely, but the people upon whose land the mining will then take place feel that their livelihoods are at risk and that they have not been listened to. During Committee of the Whole House, I would like a reassurance that this has taken place and that we will not see an automation of the process resulting in landowners being deprived of their livelihood. With those very short comments, in addition to everything else, I suggest that we will support this bill.

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [3.33 pm] — in reply: I will start by thanking all the members for their contribution today on the Mining Amendment Bill 2021. There were a few more than I had anticipated, but it is always good that everyone has had the opportunity to have their say and input on what is an important bill.

I acknowledge the contribution of the lead speaker for the opposition, Hon Neil Thomson, who kindly indicated that the opposition will be supporting the bill. We appreciate that. On the general thrust of this, the opposition and the government are of one mind in terms of the mining industry's importance. That was also reinforced by the contribution of Hon Dr Steve Thomas, who made a number of interesting points and promoted me a couple of times along the way—if only the member had that power!—thank you.

I note the comments of Hon Wilson Tucker, who also indicated his general support for the bill, and I acknowledge the matters that he raised. I will get to that in substance.

It was disappointing that Hon Dr Brad Pettitt indicated he could not support the bill. I feel that if the honourable member gives the government time to work through this, he might change his views. I am certain that this proposed amendment to the act will not be bad for the environment or communities, as the legislation strikes an appropriate balance between the streamlining of processes and the protection of the environment and culturally and socially important areas. Of course, the honourable member is entitled to form his own view, and I appreciate that he has taken the time to express his view in Parliament.

To my good friend Hon Kyle McGinn: as always his passion for his community is expressed very strongly through the way he speaks in this chamber. It was interesting how it came back to shipping! It is not unlike how Hon Dr Brian Walker's contributions almost always seem to come back to cannabis and Hon Wilson Tucker's to software, data analytics and all that sort of stuff. In any event, I think raising the interactions between mining and shipping is very relevant and pertinent to this debate. I thank the honourable member for his contribution. Of course, Hon Dr Brian Walker's contribution, short as it was, was of high quality, as always.

The starting point for my reply to the second reading debate, providing the official response on behalf of the government, is to indicate how mining activity significantly drives the economic growth and wellbeing of this state and how our prosperity is heavily connected to its success. The role of all responsible political parties when they come to power is to ensure that that success continues in an appropriate way. If we can do anything to ensure the success of the industry, balanced with those other factors I talked about—environmental, social and those sorts of things—that is something we should be doing. It is what we are trying to achieve with this legislation.

The purpose of the Mining Amendment Bill 2021 is to amend the Mining Act to increase the efficiency of applications and assessments for mining activities. It is largely about process. It is not about changing the rights of miners or

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members of the community; it is essentially about the process. The amendments will modernise activity approvals under the Mining Act and embed, as Hon Dr Steve Thomas identified, a risk-based outcomes-focused regulatory framework. This will not only reduce the administrative burden on industry for applications and ongoing approvals, but also assist government efforts to effectively regulate the sector and minimise the risk to the environment. The key is achieving a balance, and the bill will achieve that through several key features.

I will add, and this has been mentioned during the debate, that there is another amendment to the Mining Act in the other place, the Mining Amendment Bill 2022. It is not a matter for us to debate today. That further bill is, again, an effort by the government to advance a bill that was first drafted in 1978 that has been modernised. Of course, we will get into the details of that legislation when it reaches us in due course.

A key feature of this bill is new part 4AA, “Conditions and approvals”, which will consolidate all activity approvals in one part of the act. Hon Dr Brian Walker mentioned that there is a lot of red text in his copy of the bill. A lot of that red text is just text that has been lifted out of one part of the act and put into the new part 4AA. Hopefully, that will make it a lot easier, or more straightforward, for people using the act to understand what they have to deal with when they are seeking approvals and the conditions that apply in those circumstances, rather than having to trawl through the entire Mining Act. In many respects, the Mining Act is practical for people who work in that industry. People have spoken about the difference between the mum-and-dad prospectors and the big mining companies, and how the act applies to them perhaps not equally but it is of equal importance to them and what they are doing. The bill is also important for those communities and environmentalists who are interested in having their say, and it is important for them to understand it. It is about not simply miners, but also the impact mining has on the community and those who have objections to it.

Bringing all these provisions into one dedicated part will clearly separate the processes for granting tenements from the subsequent approvals process for prospecting, exploration or undertaking mining operations, and will provide clarity and ease of reference for miners. The part also sets out clear and transparent assessment and approval procedures that are not provided for in the current act.

Members have mentioned this, but one of the most significant features is the creation of the framework for the new eligible mining activity. A key feature of the bill is the introduction of the new eligible mining activity framework, which is a new form of automated authorisation to enable a faster approvals process for certain—I make that clear—eligible activities. It will not apply to all mining activities, just certain mining activities. This will remove the current time period for an application to await and undergo assessment while ensuring the full information capture and appropriate regulation of those activities without compromising environmental outcomes. As members have mentioned, the specific details of the activities to be considered an eligible mining activity and standard conditions will be prescribed in supporting regulations and will be subject to a separate consultation period following the passage of this bill.

A benefit of the introduction of the eligible mining activity framework is that it will enable environmental officers from the Department of Mines, Industry Regulation and Safety to be redirected and allocated to assessment of and on-ground compliance for high-impact, high-risk activities that occur in Western Australia. The point to make is that technology, which Hon Wilson Tucker often talks to us about, is available to integrate into this system to allow us to get more people out from shuffling papers and onto the ground in the community. I take the point that Hon Dr Brad Pettitt made that maybe we should expand the public service to achieve that objective rather than going down the path of automation, but I think that is a false economy because the technology is available to us. It is likely to be a much more secure process because, as Hon Wilson Tucker pointed out, it will be less prone to human error. It will not be without error, of course, but those activities that are appropriate to be automated will be less prone to human error. The key is not whether it is appropriate to automate, but which element of it is appropriate to automate. Hopefully, as we go through the Committee of the Whole stage, members in the chamber will become much more comfortable about where that sits.

I will make some more detailed comments about the automation of mining approvals, noting members’ concerns about that. However, I want to reassure the house that the introduction of the eligible mining activity framework will in fact strengthen environmental regulation under the Mining Act and help to modernise and implement a risk-based, outcomes-focused approach to mining in Western Australia. In the last financial year, approximately 3 500 applications to undertake exploration activities, known as programs of work, were received by the Department of Mines, Industry Regulation and Safety. I will repeat that—3 500 in the last financial year. That is roughly 100 a day, on average. That is a lot of applications to receive and a lot of work to be undertaken. Although Hon Dr Brad Pettitt identified, I think it was two or three individuals who wrote to him —

**Hon Dr Brad Pettitt:** Four.

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**Hon MATTHEW SWINBOURN:** It was four. Sorry, I thought I was paying attention, but, clearly, I was not paying enough attention! The point I am making is that in the context of the overall work that the Department of Mines, Industry Regulation and Safety undertakes, that is only a small proportion of those 3 500 applications.

I think the contribution of Hon Kyle McGinn, who has left the chamber to attend to urgent parliamentary business, on his experience in dealing with the mining sector in his electorate is to be contrasted with the size of the pool of applications for programs of work that the department is dealing with. Each of these applications had to undergo assessment by an environmental officer prior to a decision being made. In some instances in which an application is for simple activities, would cause minimal disturbance and is not located in a sensitive environmental area, the assessment is largely administrative in nature and diverts an environmental officer's time away from higher risk assessments and on-ground compliance work. The eligible mining activity framework acknowledges the diversity of the mining sector in Western Australia and will introduce a tiered approach to the environmental assessment of mining operations. It will do this specifically by acknowledging that certain minimal disturbance mining activities located outside of sensitive environmental areas can be progressed through an automated authorisation path. Although it will be an automated authorisation, the eligible mining activity framework will be developed to ensure full information capture while still occurring within the robust regulatory framework that applies to mining activities.

I will just make a little diversion here to cover off some information. We are talking about spatial capture—sorry, did I talk about spatial captivity?—and sensitive environmental areas. The system used is called TENGRAPH Web. It is a spatial enquiry and mapping system displaying the position of Western Australia's mining tenements in relation to other land information. The spatial boundaries for all areas like state forest and conservation areas et cetera are shown in TENGRAPH. Consultation through the drafting of regulations will inform what areas should be excluded from eligible mining activities in addition to those outlined in sections 24 and 25 of the Mining Act—that is, areas that are not appropriate for an EMA notice. This may include feedback that private land should be excluded from an EMA. For private land use, as part of the consultation on the corresponding regulations, the department will seek feedback from stakeholders on the criteria for the EMA framework, notably, as I say, the types of land in addition to those outlined in sections 24 and 25 of the Mining Act that are not appropriate for an EMA notice. This may include feedback that private land should be excluded from an EMA process. I think that is in its entirety.

**Hon Dr Steve Thomas:** We will come back to that during the committee stage.

**Hon MATTHEW SWINBOURN:** Yes, for sure; I am just trying to cover off some of the points that were raised.

I might have said this already, but I am going to repeat it, because I am not sure whether I did. Although it will be an automated authorisation, the eligible mining activity framework will be developed to ensure full information capture, which I just spoke about, while still occurring within the robust regulatory framework that applies to mining activities. Activities authorised under the eligible mining activity framework will need to be undertaken in accordance with standard environmental conditions, which we are not changing with the amendments to this act. The automated authorisation will not remove the requirement for an applicant to operate in accordance with all tenement conditions, and, should applicants not meet these conditions, the tenements will be liable to forfeiture under enforcement actions. A benefit of the introduction of the eligible mining activity framework is that it will enable environmental officers' time to be redirected and allocated to the assessment of on-ground compliance of high impact, higher risk activities that occur in Western Australia.

The specific detail of what will constitute an eligible mining activity and the conditions that will be applied to eligible mining activities will undergo extensive public consultation should the bill pass. This consultation process will encourage submissions from any stakeholders, including the general public, communities and freehold landholders. Given that changes to the mining regulations can be disallowed by the Parliament, Parliament will retain its oversight on the scale and nature of activities that will be deemed suitable to be assessed through the eligible mining activity framework. Hon Wilson Tucker raised that issue about the regulations. It is twofold in one sense. The Joint Standing Committee on Delegated Legislation, which I think is made up half by members of this house and half by members of the other place, will consider all those regulations, because that is its role. If, for any particular reason within the rules of that committee or its terms of reference, it decides that a proposed regulation offends those terms of reference or sits outside the power that the act has given it, then, as the member has probably experienced here, the committee can make a recommendation to the house to disallow that regulation.

Of course, the other part of that is that any member of this place is entitled to move a disallowance motion on any regulation within a certain time frame. I understand that that is a burden because a lot of regulations are made, but we would expect that if there is significant opposition to particular regulations, members of the community would at least reach out to members of Parliament to let them know about their concerns. I make this point that although Hon Wilson Tucker is not a member of the Joint Standing Committee on Delegated Legislation as I understand it—he may or may not be aware of this—he is not excluded from being involved in any hearings. He can sit in on the



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committee, but he will not have voting rights and things of that kind. The member can talk to the clerks, who will give him more advice, but if those things come up, particularly in relation to the area that he is concerned about, he might be able to be involved through the Joint Standing Committee on Delegated Legislation. There is obviously a view amongst members, particularly opposition members, that regulation-making powers and the process of regulation powers are inferior to giving power to Parliament itself, although I might add for those members who are not aware that when members opposite are in government, they also make the same regulation powers that we tend to make because they act on identical advice from the public service.

**Hon Dr Steve Thomas:** When your side is in opposition, its members express equal or more outrage!

**Hon MATTHEW SWINBOURN:** Never—that would never happen! It usually depends on which side of the house members are sitting on as to how they feel about regulation-making powers. They have their benefits, of course, because they can be robust and flexible in not having to change an act in its entirety, which can be a long and cumbersome process, which, of course, has the ultimate authority of Parliament and its views.

I turn to the stakeholder engagement requirements for mining environment applications. When an applicant seeks approval to conduct mining activities via a mining proposal or a mining development and closure proposal as outlined in the bill, they will be required to demonstrate that they have undertaken engagement with all relevant stakeholders to ensure that interested and affected parties are informed of proposed mining activities and that those parties have been provided with the opportunity to express how they may be affected. Applicants will also be required to demonstrate that continuous stakeholder engagement will occur during the life of the mining operation. This will ensure that stakeholders are afforded the opportunity to provide feedback during the life of a mining operation. Proposed section 103AN of the bill sets out information requirements for a mining development and closure proposal and states that information can be prescribed in regulations. The information to be prescribed will mirror the existing arrangements for mining proposals and mine closure plans, which are as follows: first, the mining proposal must include information on the engagement that has been undertaken with stakeholders, a record of the engagement undertaken to date and a strategy for ongoing engagement; and, secondly, the mine closure plan must include information on the engagement that has been undertaken with stakeholders relevant to rehabilitation and mine closure, a record of the engagement undertaken to date and a strategy for ongoing engagement. Meaningful engagement with affected parties will be important in maintaining an open and robust regulatory framework to maintain community support of the state's resource sector.

I am aware of the concerns amongst some private landholders about the interaction of mining tenements over private land. Under the Mining Act 1978, any person is entitled to object to the grant of a mining tenement. The owner and occupier of the land are specifically entitled to be heard in relation to an application. I want to reassure the house that none of the changes in this bill will vary any existing objection rights under the Mining Act, nor will the bill change any existing rights for private landholder consent for tenement application, which, I think, was one of the Leader of the Opposition's questions.

**Hon Dr Steve Thomas:** That is the bit I raised. That is important.

**Hon MATTHEW SWINBOURN:** Yes. This bill focuses on improving the environmental approvals that are issued under the Mining Act that occur post—the grant of a tenement. I will also talk about the approvals statement, which is obviously another key feature of this bill. The introduction of a single approvals statement for mining operations will streamline the application and approval process. This is a new instrument that will clearly record the approved mining operations and corresponding conditions of approval. The introduction of the approvals statement will consolidate all approved activities and relevant environmental conditions across multiple tenements and—again, I think that was the member's question—set clear relevant parameters of approval. The results in clarity of the approval activities and conditions are efficiencies for both industry and DMIRS in terms of managing compliance with approvals. It will significantly reduce the regulatory burden on tenement holders, as they will no longer have to report against myriad conditions set over time and, if I recall correctly from my discussions with the advisers, sometimes competing conditions in different documents. They will report on the outcomes-focused conditions set specifically on each activity, which provides flexibility for proponents to change their environmental management over time to meet best practice standards. This will provide much better outcomes for the environment.

I want to also briefly touch on the consultation that occurred, because that was raised. A specific question was asked about whether the Environmental Protection Authority was consulted, and I can confirm that it was consulted in the development of the bill. The Mining Amendment Bill 2021 was made available for public consultation under its former title, Streamlining (Mining Amendment) Bill 2021, for an eight-week period between 3 May 2021 and 25 June 2021. The Department of Mines, Industry Regulation and Safety adopted a number of mechanisms to engage with stakeholders on the bill. This included using the DMIRS resource and environmental regulation group e-newsletter, updating the DMIRS consultation hub, publishing announcements on the DMIRS and wa.gov.au Streamline WA webpages, holding information sessions and utilising DMIRS' various social media platforms. As

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a result of the extensive stakeholder engagement undertaken and comments received from stakeholders, numerous changes were made to the drafting of the bill prior to its introduction.

There are some further details on the consultation. During the consultation period, DMIRS held a number of public information sessions in Perth on 14 and 25 May 2021 as well as 11 June 2021. Two sessions were held in Kalgoorlie on 18 May 2021 and one session was held in the south west in Bunbury on 21 May 2021. An online information session was also held for stakeholders who were unable to attend an in-person briefing. These events were attended by a range of stakeholders, including government, industry, Aboriginal corporations and environmental consultants. During the consultation period, DMIRS met with industry peak bodies, including the Association of Mining and Exploration Companies, more commonly known as AMEC; the Chamber of Minerals and Energy of Western Australia, more commonly known as the CME; the Amalgamated Prospectors and Leaseholders Association; and the Eastern Goldfields Prospecting Association. DMIRS met with the Department of Water and Environmental Regulation and, as previously indicated, the Environmental Protection Authority, the Department of Biodiversity, Conservation and Attractions and the Department of the Premier and Cabinet to discuss the bill. DMIRS also wrote to the Department of Jobs, Tourism, Science and Innovation and the Department of Planning, Lands and Heritage seeking comments on the bill. DWER, the EPA and DBCA provided comments on the bill. During the consultation period, it was identified that further information on transitional arrangements and the potential structure of the mining development and closure proposal was required. An additional information sheet was released on 3 June 2021 providing further details on these matters. A response-to-submissions document was published on the DMIRS website, providing a detailed response to submissions and summarising key themes arising from stakeholder feedback. I think it is fair to say that there was extensive consultation on the development of this bill. There were opportunities for industry, government agencies and environmentalists to have their say on the development of the bill.

The bill was first introduced to the Legislative Assembly on 20 October last year. This bill has been around for almost 12 months, so it should not be surprising to anyone that we are currently dealing with it. Formal submissions were received during the consultation period from the Amalgamated Prospectors and Leaseholders Association of WA; the Association of Mining and Exploration Companies; the Australasian Institute of Mining and Metallurgy; Cement Concrete and Aggregates Australia; the Chamber of Minerals and Energy; the Department of Water and Environmental Regulation; the Department of Biodiversity, Conservation and Attractions; the Eastern Goldfields Prospectors Association; the Environment Institute of Australia and New Zealand Inc; the Environmental Protection Authority; Fortescue Metals Group; Iluka Resources; Lindsay Stephens of Landform Research; and Northern Star Resources.

In conclusion, this bill will significantly reduce the regulatory burden for industry and government, while at the same time strengthen and improve environmental management of mining activities. The reforms are consistent with the principles of best practice, environmental regulation and accountability, and will be transparent, predictable, proportional and targeted. The reforms proposed in this bill will greatly streamline activity approvals and improve regulation under the Mining Act.

Members may have raised other matters during their contributions to the second reading debate. I have tried to cover off most of them, but as we are going into committee, it would probably be best to defer any more discussion or contribution on them. I will check my notes to make sure that I have not missed anything important. I think the only extra bit I would like to add is to a question asked by Hon Neil Thomson, which was: will the bill achieve the goal of reducing red tape? As short as I can put it, member, yes, it will.

With those comments, I commend the bill to the house.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

**Clause 1: Short title —**

**Hon NEIL THOMSON:** I thank the parliamentary secretary. Just on the point about how this is going to impact on mining activities, we do not refer to it as exploration—we do not seem to make a distinction. My understanding, from reading the bill, is that the reason for that is by defining eligible mining activities in regulation, we will sort of be defining by their outcome. Therefore, there is no need to make a distinction between exploration activities and, say, activities at an existing mine site that might be subject to this bill. I am curious about the sorts of activities that will be eligible mining activities. Maybe the parliamentary secretary could elaborate on that a bit. Would it be fair to say that almost all activities will be exploration activities or will activities that are currently undertaken within

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mine sites and are currently subject to approval be exempted? That comes to the heart of the issue of scope and scale. Hon Dr Brad Pettitt raised a fair point. There is concern about the scope of eligible mining activities that will be subject to this automated process. I think that is the part that the community is not so clear on. To be honest, I am a layperson in these matters, as we both probably are. So that I can better understand the scope of the automated process, could the parliamentary secretary outline, without prejudice, the sorts of activities that might be eligible?

**Hon MATTHEW SWINBOURN:** I will first take the member to clause 34 and proposed section 103AB(1), which defines “eligible mining activities” —

- (1) For the purposes of this Part, the regulations may prescribe an activity done on land the subject of a mining tenement to be an *eligible mining activity (EMA)* if —
  - (a) the activity uses machinery to disturb the surface of the land for the purposes of, or in preparation for, mining; and
  - (b) the activity can be carried out with minimal disturbance to the surface of the land.

That is the first thing to understand about the scope of what can be an eligible mining activity. Yes, it does include exploration, prospecting and mining; however, it will be limited to exploration and prospecting at first. Because this is a new change, the department will limit what an EMA will be under the regulations. The intention is to limit it to exploration and prospecting, but it would be disingenuous of me to say that it could not later be extended to mining activities, although it would be hard to see how most significant mining activities could satisfy the definition of an EMA. An EMA involves minimal disturbance to the land, and almost all mining activity is not minimal; it is significant. I hope that answers the member’s question.

**Hon NEIL THOMSON:** I have a point of clarification on that. Are there any cases of existing mine sites that will be required to seek further approval when their broader activities come within the ambit of eligible mining activities? It is a simple question: is there a problem in the mining sector except for—I am just trying to find where the problem is. I understand that the problem currently exists mainly for greenfield exploration activities.

**Hon MATTHEW SWINBOURN:** I think the member is asking about mining activities rather than exploration and prospecting. I am told that this is the kind of thing that we contemplate here as being minor—sorry, not minor. The correct wording is “minimal disturbance” to the surface of the land on an existing mining tenement. For example, the lessee will have to make an application if they want to put a windsock in because it will require a hole and a variation to their licence. We are not proposing that it will apply to that but by giving the member the example of a windsock I can show him how minor it is in the overall scope of the mining activities. Exploration activities will mostly benefit from what we are doing here.

I was given an example of somebody who has a mining exploration licence to drill 100 holes on their site and finds that some of those holes are not on the—what are they called?—mineral strike. There is some language here that is not familiar to me. Those 100 holes would be a significant activity and a significant disturbance so it would not be an eligible mining activity process, but if they wanted to drill another three or four holes where they are licensed, the EMA process would be available for them to do that. They could then, perhaps, follow the ore whilst the drilling equipment is there and available, rather than having to restart the whole process. As the member knows, getting the drilling rigs onto the site, doing the drilling and booking in the time make up a lot of the up-front costs for these exploration activities. If all that work is done and they do not turn up any results, and they have to go back under the paper method for a few extra holes, the cost comes up for them.

**Hon NEIL THOMSON:** The parliamentary secretary talked about the environmental officers and the ability to redirect those officers, under the bill. Using the parliamentary secretary’s example, I assume that in the current scenario they would have to, effectively, seek approval for those extra three holes. Under the new regime, they would not need to because it would be deemed to be an eligible mining activity; therefore, within the approved program, they could operate within the definition of minimal ground disturbance.

I go back to the redirection of environmental officers. Has anyone in the department done an analysis of the total body of work that is currently undertaken and the number of FTE tied up in the approvals process for low-risk and high-risk activities, and then made an assessment of how much is likely to be redirected? Does the parliamentary secretary have any idea, once this bill is enacted, of the number of FTEs that are likely to be redirected into those high-impact, high-risk activities?

**The DEPUTY CHAIR (Hon Jackie Jarvis):** Parliamentary secretary.

**Hon MATTHEW SWINBOURN:** Thank you, deputy—it has been happening today; people are being promoted!

**The DEPUTY CHAIR:** Deputy Chair?

**Hon MATTHEW SWINBOURN:** Deputy Chair—yes. I thought I was going to say Deputy President, though, so you would get a pay rise for that!

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**Hon Dr Steve Thomas:** We've been handing out promotions all over the place today.

**Hon MATTHEW SWINBOURN:** We have, have we not? It is Thursday!

To answer the member's question directly, in the parameters of the question, no analysis has been done, and I will give the reason for that. People have turned their minds to the issue about change, but because the scope of the eligible mining activity has not yet been determined—what will sit in and outside of an eligible mining activity—we cannot work out what the impact will be on the department, to the degree to which the member has indicated, because that process has to be undertaken in consultation with the community. The department does not have a set position about what the eligible mining activity will be to do the level of analysis that the member is talking about. The department knows that there are approximately 3 500 applications every year, and if there were a 10 per cent impact on that, that would be 350, which is a significant amount. Even on the guesstimates, there will be a shift from work dealing with applications to the on-ground stuff, because the workload of an environment officer is split between dealing with applications and on-ground work. Therefore, if we think of it as a bit of an indicator, we want to move more towards having that split more favourably on the side of on-ground activity or monitoring as opposed to processing mining activity applications.

**Hon NEIL THOMSON:** I hope, as I am sure the parliamentary secretary does, that there will be a significant percentage of ability to redirect. On the question of cost recovery, is there likely to be any impact at all on the average application fee? I believe there is a cost-recovery model for current applications. Of those 3 500 applications, I assume there would probably be some sort of average. I do not know the detail, but I assume the parliamentary secretary might be able to provide some enlightenment on this. I assume it is based on some sort of formula around the time it takes and the scale of the applications. Does the parliamentary secretary think there is the potential for any saving in this to both the proponent and the government?

**Hon MATTHEW SWINBOURN:** I am told there are currently no prescribed fees and there is no intention to prescribe fees for EMAs when the legislation comes through. What might have been picked up when the member looked at the bill is that a power to prescribe fees is in the bill, but that power will simply be moved from the part of the act it currently sits in to new part 4AA. In practice, there will be no change because no fees are currently prescribed and there is no intention to prescribe fees. The member is talking about a cost-benefit analysis or a reduction in fees, but because there simply are no fees, there is no impact.

**Hon NEIL THOMSON:** Maybe I misunderstood. I appreciate that. I thank the parliamentary secretary for the clarification that there are no fees for EMAs. Will there be fees for the applications that are currently —

**Hon Matthew Swinbourn:** No.

**Hon NEIL THOMSON:** No? Thank you. That is good.

The other aspect is cost. I am trying to understand whether there has been any analysis of the likely cost to industry to produce these programs of work. Is there any impact at all, given that programs of work are required? Let me rephrase that. The proposed section talks about the program of work unless it is an EMA. Is there a prospect of actually reducing the proponent's in-house cost of programs of work? Is that correct?

**Hon MATTHEW SWINBOURN:** There is no cost for programs of work or to submit them, and a cost for that will not arise out of the changes we are making. The view is that industry will save money as a consequence of the reduction in delay for those activities that fall within an EMA. They will not have to wait, which is what currently occurs, because the automated process will be quicker. If we go back to the example I gave before, those EMA processes or activities will have speed in the system and a lack of delay. If a company has an expensive drill rig on site, it will make savings because it does not have to book it in for another time. Parts of this state are heavily affected by the weather—either too hot or too wet—so it will be a massive advantage to exploration companies in particular, with a reduction in their overall exploration costs. One of the things that we can take comfort in is that they are very keen on what we are doing to get this bill passed so that the rest of the process can get underway and this can come into effect.

**Hon Dr STEVE THOMAS:** Just before I move on to my question, minister, my memory of the Mining Act is that the program of works —

A member: Parliamentary secretary!

**Hon Dr STEVE THOMAS:** Sorry—parliamentary secretary! I have done it again! He is on his way, Leader of the House. He will be there soon—watch out!

**Hon Sue Ellery:** I'm a supporter.

**Hon Dr STEVE THOMAS:** My memory of the Mining Act is that programs of work are a significant part of it already, so this might be one of those occasions when there will not be a significant change in what happens in programs of work.

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**Hon Matthew Swinbourn:** No, there will not be significant change.

**Hon Dr STEVE THOMAS:** Yes, that is my memory of it, too. We are here to help!

I want to do most of my stuff on clause 34, but there are concerns in the community. There have been some untoward concerns about this. I raised this in my second reading address, as did Hon Neil Thomson, and Hon Dr Brad Pettitt read out some emails that I had received as well. My understanding of the bill is that there will be little change from the Mining Act; it is just that the way that it will go forward is being rearranged. I presume that the government has addressed those concerns. Surely those concerns have been raised with the government by this same group of people. Can the parliamentary secretary tell us how the government has addressed the concerns? Has the government received those concerns? If it has received those concerns, has it responded? How has it responded? If there is a standard letter that the concerned people in that area are receiving, he might even be in a position to table if not a specific letter to a person, then the substance and direction that the government is giving to people to reassure them that the proposal in this bill will not suddenly grant significant additional access for people to roll onto their property and do whatever they are concerned about. Can the parliamentary secretary let us know how the government is managing that?

**Hon MATTHEW SWINBOURN:** There are probably two parts to the member's question, and one relates to the act itself. Hon Dr Brad Pettitt raised the issue of people's concerns about pegging on their private land and things of that kind. This bill does not deal with that. It will not change any of the existing issues around that.

**Hon Dr Steve Thomas:** Which you did say in your second reading reply as well.

**Hon MATTHEW SWINBOURN:** Yes. What I would say, though, is that the department is aware of the issue that has been raised. I cannot give the member any more details because the advisers at the table are not involved in that, but the department is engaging with the community on that particular issue.

With regard to the other letters that were received within the last week and a half, my understanding is that they were sent to members of Parliament, including me as an MP, which I also made clear in my speech. I do not know that we are aware that the government received those responses and that therefore there has been a standard government response to it; I cannot say, but it may be something that is in train. We are about to break for question time anyway, so we might be able to get a little more clarity on that.

**Committee interrupted, pursuant to standing orders.**

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