Mining Legislation Amendment Bill 2015

SECOND READING SPEECH

I move –

That the Bill be now read a second time.

The purpose of the Bill is to make amendments to the *Mining Act 1978*, the *Environmental Protection Act 1986* and the *Mining Rehabilitation Fund Act 2012*.

These amendments aim to achieve better outcomes for industry, government and the environment. They will reduce the administrative burden on industry; provide better service delivery and enhance the effectiveness of government, while at the same time minimising risk to the environment.

Amendments to the Mining Rehabilitation Fund Act are of a minor administrative nature to ensure there is one nominated party responsible to pay the levy on the prescribed date each year.

The amendments to the Environmental Protection Act are consequential to Mining Act amendments and I will address them later in this speech.

The Mining Act amendments are essentially in two parts. The first contains a range of relatively minor administrative amendments such as the ability to make regulations about inspector powers and restrictions on submitting successive tenement applications over the same area of land. The second provides for a major overhaul of environmental provisions of the Mining Act, and I will primarily address these amendments here.

Over the past five years, the Western Australian Government has implemented substantial changes to the environmental approvals process for the mineral exploration and mining industry. In 2012, a Ministerial Advisory Panel, chaired by Hon Cheryl Edwardes, made 14 recommendations to Government. The Mining Legislation Amendment Bill 2013, which was passed last year, provided the means to implement the first tranche of changes recommended by the Panel.

This Bill covers the remaining recommendations and will modernise Western Australia's mining legislation so that best practice environmental standards will become the accepted practice for mineral exploration and mining operations into the future.

The Mining Act presently contains provisions to do with the environment that are scattered throughout the Act. These provisions do not reflect contemporary approaches towards environmental management.

The existence of different provisions and differing approaches reflects changes over time in industry, community and government expectations of the Department of Mines and Petroleum to achieve environmental objectives.

This Bill will bring all the environmental provisions into one Part. This will have the effect of separating the granting of tenements and the subsequent environmental approvals process for prospecting, exploration or mining activities.

The substantive matters to be dealt with in the new Part are environmental approvals, the treatment of low-impact activities, environmental and land rehabilitation conditions and approvals for native vegetation clearing.

The primary intention of the new Part is to provide a legislative structure for a risk-based and outcomes-focussed approach to environmental regulation of the mining industry.

At present, when seeking approval to undertake mining activities, proponents submit their mining proposal, which is assessed and, if it meets requirements, is approved.

Most sites are covered by a number of different approved mining proposals, all with conditions that need to be met and reported against. Sometimes conditions related to different approved documents may contradict each other. In addition, given it is the document that has been approved, tenement holders are obliged to continue to operate in the way that has been approved, rather than adopting improved practices.

This Bill changes the focus of approvals onto the specific activities that are proposed to be undertaken and how they will be managed so that there are no unacceptable impacts on the environment, rather than the approval of a document. This will significantly reduce regulatory burden on tenement holders as they will no longer have to report against a myriad of conditions set over time. They will report on conditions set specifically on each activity and, as each activity is completed and the area rehabilitated, those conditions will be dropped.

As each approval will be based on the environmental impact of specific activities, proponents will not be obliged to spell out exactly how they will undertake each activity and then strictly follow that course of action. Instead, environmental outcomes will be agreed between the proponent and regulator and the way in which each operator undertakes their activities can change over time to meet best practice standards. This will provide much better outcomes for the environment.

There will, however, continue to be restrictions placed on mining operations to ensure the protection of environmental values. While specific locations of mine features may not be prescribed under this new approach, operators will be restricted to undertaking their activities within approved envelopes of land. Risks to sensitive environmental features within a project's area of influence will continue to be assessed through a comprehensive approval process. Proponents will be required to adequately demonstrate how they plan to avoid or minimise these risks.

This represents a more flexible and risk-based approach to environmental regulation and will result in appropriate attention being paid to the key risks associated with a project, whilst reducing the need to assess compliance with inconsequential requirements and conditions. Operators will have the flexibility to determine the most efficient and effective way of meeting environmental objectives and the regulator will be able to focus on an operators success in meeting agreed environmental outcomes.

The move to a modern risk-based, outcomes focussed approval regime is common to a number of areas of government. DMP's Resources Safety Division, through the Reform and Development at Resources Safety (RADARS) program, has progressively moved to a risk management framework which puts the onus on operators to develop and maintain safe working environments and a proactive safety

culture. Petroleum legislation administered by DMP also encompasses a risk-based approach. In 2009, the Environmental Protection Authority (EPA) completed a review into the Environmental Impact Assessment (EIA) process which resulted in the adoption of a risk-based approach to EIA and the setting of outcome focussed conditions.

This Bill also introduces a new low-impact notification process for minor activities, such as small scale prospecting and exploration, so that approval will not be required.

One significant change that will greatly facilitate the approvals process is an amendment to Schedule 6 of the Environmental Protection Act to exempt mining operations approved under the Mining Act from the requirement to also have a clearing permit under the Environmental Protection Act. Instead, vegetation clearing will be approved as part of a programme of work or a mining proposal under the Mining Act.

The Department of Mines and Petroleum has approved native vegetation clearing permits under delegation for many years and the regulation of native vegetation clearing will remain stringent and consistent with decisions made by the Environmental Protection Authority following this change.

Applicants for approval of a programme of work or a mining proposal will be required to address, in the application, any native vegetation clearing proposed to be undertaken and to demonstrate that the proposed clearing complies with the native vegetation clearing principles set out in Schedule 5 of the Environmental Protection Act.

Provisions dealing with mining on public reserves are being strengthened to expand the provisions for setting conditions and to ensure Ministerial power to issue penalties for condition breaches.

Finally, in assessing activities proposed to be undertaken, other attributes of the land may be taken into consideration, such as social, economic and cultural values, as well as man-made structures.

In conclusion, this Bill brings about a major overhaul of the environmental provisions of the Mining Act that will significantly reduce regulatory burden on tenement holders while at the same time strengthen and improve environmental management in the mineral exploration and mining industry. These are consistent with the government's approvals reform strategy and principles of best practice environmental regulation – accountable, transparent, predictable, proportional and targeted.

Pursuant to Legislative Council Standing Order 126(1), I advise that this Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the Government of the State is a party. Nor does this Bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the house and table an Explanatory Memorandum.