Speech by

Hon. V. LESTER

MEMBER FOR KEPPEL

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ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

Hon. V. P. LESTER (Keppel—NPA) (3.58 p.m.): The Environmental Protection and Other Legislation Amendment Bill 2000 canvasses one of the most important environmental issues in this State, that of the management of the mining industry and its interaction with our landscape. The mining industry has provided, and continues to provide, the State of Queensland and the people of Queensland with enormous benefit. Despite the growth in the tourism industry and the service industries, mining, together with primary industry, still produces half of the nation's export income.

At our State level, that contribution is even more significant in terms of the industry's economic contribution as a driver of rural and regional development and as a major employer. But in any consideration of the economic and social considerations relating to the mining industry, it is essential that there also be ample consideration of the environmental considerations.

By its very nature as an extractive industry, the mining industry can often have a considerable impact on the environment. Against that backdrop, the challenge for us as policy makers is to ensure that the most effective and most efficient legislative framework is maintained so that the inevitable environmental impact of the industry is managed in the most sustainable way, in a way that ensures the essential contribution made by the mining industry to this State can continue and in fact that that contribution can continue to grow, but in a way that has the least impact on our environment possible.

The National/Liberal coalition recognises that everyone in our community has a responsibility for the environment. Every member of the community is an environmental manager in one form or another, so it is important that Governments coordinate and manage this shared responsibility for the mutual benefit of everyone in the community currently and in the future.

There will always be a need for some regulatory bottom line when it comes to environmental management, but sound environmental management should not be just about force and control, and penalties and big fines; it should be about education, community responsibility, collaboration and partnerships.

Far too often, though, we have seen the Beattie Labor Government rely on the former approach when it comes to policy and legislation that relates to the management of the environment. We have seen the big stick approach with fines and penalties and the dead hand of the bureaucracy presiding over every action of industry and every action of individual environmental managers.

That has been the style of this Minister and his Government when it comes to the important issues of vegetation management, when it comes to the management of our water resources and when it comes to the management of our native hardwood forests. It is an approach that has no regard for the rights of land-holders, an approach that has no regard for the environmental credentials of those people the Minister lords it over and an approach that gives no recognition to the gains in environmental management that have already been achieved.

It is little wonder, then, that the Minister and the Beattie Labor Government have got so many people in the community offside. It is little wonder that many of those people who may previously have been prepared to work with the Minister now want to unseat him. I refer to the land-holders, the timber communities, the workers, the recreational forest users, the irrigators, the shire councils— and the list goes on and on.

I was pleasantly surprised when, with the introduction of this legislation to the Parliament and the Opposition's subsequent consultation with various stakeholders, I discovered that this Bill, in general terms, enjoys the support of those in the industries to which it will apply but does not enjoy the support of another important stakeholder, namely the conservation movement. That could be described in mild terms as a turn-up for the books. As shadow Environment Minister, I find it somewhat disappointing that the agreement between the mining sector and the conservation movement that was originally evident on this issue has now seemingly evaporated.

In his second-reading speech, the Minister claimed that the principles underlying this legislation were developed in partnership with the mining industry, the conservation movement, indigenous interests and other sectors of the community such as farmers. But in almost the same breath the Minister stated that it was not possible to satisfy every aspiration of any sectional group.

I am aware that the conservation movement, for one, is of the view that most, if not all, of its aspirations have not been satisfied with this Bill. In fact, after directing their preferences to the Labor Party in the 1998 State election, in large part on the basis of the Beattie Government's promises on this issue, the Queensland Greens have now publicly regarded this legislative proposal as worse than that which has existed to date under the Mineral Resources Act 1989.

That is quite an indictment not only of the Beattie Government's failure to honour another election promise—just as it failed to honour the now Premier's promise to employ voluntary incentives for vegetation management on private land—but it is also an indictment on the so-called partnership process claimed by the Minister. This Bill provided a major opportunity for the Government to achieve, for once, a community consensus on progressing the environmental management of mining in this State. It was an opportunity to introduce a modern, responsive and effective piece of legislation with the support of all the stakeholders. But the Minister and the Beattie Labor Government have again squibbed it.

They have again lost the opportunity to achieve community consensus, just as they lost it on vegetation management, as they lost it on water resources and as they lost it on the Crown forests. This debate represents the culmination of what most have regarded as a long and arduous process in the development of a new legislative framework for the environmental management of mining in the State of Queensland. It is a process that goes back, arguably, as far as 1994 and the Matthews CJC inquiry into the dumping of toxic waste into sewers and waterways in south-east Queensland.

That inquiry heard evidence from a whole host of people about toxic waste dumping and the apparent inadequate enforcement of environmental law by the then Department of Environment and Heritage. That inquiry also heard evidence about suspect mining practices and, more specifically, that mining sites had been left in a contaminated condition and without the appropriate rehabilitation work being undertaken. Justice Matthews' report, tabled in October 1994, recommended a range of actions including the establishment of a separate Environmental Protection Agency to enforce environmental laws and to take over environmental compliance matters held by various other Government agencies.

Special reference was made to the Department of Mines and Energy and the recommendation that its regulation of environmental management by the mining industry should be separated from its other functions and relinquished to the Environment Protection Agency. Since then, of course, the Environment Protection Act has been introduced. The former Borbidge coalition Government progressed the development of an environment protection policy for mining and petroleum, and now we debate this Bill today.

This is an important occasion in the history of the mining industry and in the history of environmental management in Queensland. Regardless of the criticisms of this legislation that have been raised by the likes of the conservation movement, the Beattie Government has the majority, albeit slim, to push this Bill through in any form it wishes. We have seen a marked increase in the arrogance of the Government since the Mulgrave by-election when it comes to ignoring any sort of scrutiny of its legislative agenda. Nevertheless, I would ask the Minister to explain to the House in his reply at the conclusion of this debate exactly why he has not been able to achieve a consensus with this legislation, why the concerns of stakeholders such as the conservation movement and others that we will refer to have not been accommodated, and why there is hostility in some quarters to the framework proposed in this Bill.

Mindful that the framework proposed for the regulation of mining by the Government is a significant departure from the current arrangements and a whole new way of doing things, I would welcome the provision for a review of the arrangements over the next 12 to 18 months. I believe that is an important provision and should provide the opportunity to ensure that the new system is, to the best extent possible, efficient and effective.

At the outset, I want to welcome the apparent acknowledgment by the Minister that the new regulatory regime should provide timely and cost-effective consideration responses to the mining industry. The Opposition believes that the mining industry has suffered more than enough from

uncertainty and delay with the issue of native title. We are firmly of the view that the environmental regulation of the mining industry must be rigorous and effective but that it must not generate any unnecessary or additional red tape or bureaucracy for the industry. I know that is a big ask, but we have to address it. Business and industry are somewhat overcome by bureaucracy these days.

Too often we have seen an almost zealot-like pursuit by some agencies, including at times the EPA, and the imposition of costly hurdles and encumbrances on development and on job and wealth-generating industries. The EPA's goal should be to work with the community and with industry, not against them. That is the view of the National/Liberal coalition. That will be the basis of the policy and the initiatives we will take to the next State election, for implementation on the re-election of a coalition State Government. In this case, every effort must be made to ensure that the administration of mining in this State by the Environmental Protection Agency is effective and efficient.

This legislation, for all intents and purposes, gives the appearance that Government will endeavour to process applications for environmental authorities and other matters in a timely and efficient manner. The whole-of-government decision-making approach is a sensible one. Inevitably, wherever two Government agencies are involved in the administration of an industry or an issue, the potential exists for conflict, for power struggles and for patch guarding. That has been the case over time in all Governments. It is essential that this be avoided so that the mining industry, and indeed the wider community, is not caught up in the middle of such wrangling, like the proverbial meat in the sandwich. The Opposition will be, as I am sure the various stakeholders will be, monitoring the progress of this whole-of-Government decision-making process in order to guard against any such wrangling.

The adoption of a two-stage process, whereby mining projects will be either a level 1 or a level 2 environmentally relevant activity, depending on the environmental risk or impact of the particular project, is sensible. It should avoid a situation whereby small miners are unnecessarily bound up in fulfilling the same requirements as a major mining operation.

I also welcome the inclusion of timeliness for the assessment of mining applications by the Government and a specified assessment process for both standard and non-standard mine projects. Both of those measures provide the certainty required by not just the mining industry and the investors but all sectors.

One of the other requirements is that of efficiency; that is, this new model will not impose new fees and unnecessary charges on industry and, most especially, the small miners. During the briefing on this Bill provided by officers of the EPA and the Department of Mines and Energy—I place on record my thanks to them for that briefing—we spent some time discussing this issue. The point was made in the notes provided by those officers that fees and financial assurances will be held steady, pending review.

While the Opposition welcomes the assurance that they will be held steady, we would seek some clarification of exactly what is intended with any review. I believe that people need some certainty. When will the review be held, what will be reviewed and what will the terms of reference for any such review be? I ask the Minister to provide some detail as to exactly what is meant by his use of the phrase "pending review".

One aspect that the conservation movement has raised with the Opposition is that of community or stakeholder consultation during this assessment process or, in their view, the lack thereof. Specifically, I understand that it sought the formal establishment of advisory groups to provide advice to the administering authority—in this case the EPA—during the assessment process. It was claimed that agreement on this co-regulatory approach, as it has been described, had been reached with all stakeholders but that the Government did not take on board this recommendation.

As an aside I make the observation that it is curious that the conservation movement has pursued this co-regulatory model on this issue but has seemingly pursued the "command and control" model, as it describes this legislation, in regard to the issue of vegetation management, for instance. Nevertheless, the idea of an advisory group may not be without some merit, and I would like the Minister to provide some explanation as to why this recommendation was not adopted.

The Bill inserts into the Environmental Protection Act a new environmental impact statement process which must be followed for any mining project in relation to which the EPA or the Minister decides an EIS is appropriate. I note that the Government intends that this process should satisfy the requirements for accreditation under the Commonwealth Government's Environment Protection and Biodiversity Conservation Act. That should be a prime consideration, because the last thing we want to see is the imposition of another layer of regulation on industry or any duplication of the rightful responsibility of the State.

I also note that, while this new EIS process will initially only apply to mining projects and the Nature Conservation Act, a power has been included for the Government to make regulations to use this process for other projects. However, there is no indication of just what other projects this process

may be applied to, and if the Beattie Government has the intention of utilising this power in the short to medium term, then we need to know about it.

For instance, there are already arrangements in place for the administration of the intensive livestock industries in terms of a memorandum of understanding, under which the EPA has relinquished immediate responsibility for the regulation of those industries to the Department of Primary Industries. That is an arrangement that was considerably enhanced under the former coalition Government in terms of improved, more practical environmental management guidelines and a reduced, incentive-based fee structure. It would seem that this is the type of activity that could quite conceivably be caught up under this provision in the Bill. There are other industries and activities to which this EIS process could be applied also. I ask the Minister to outline exactly his Government's intention for this provision, what industries or activities he plans to apply this power to and whether the existing arrangements, such as those I have just outlined for the intensive livestock industries, will be in any way altered.

An important step forward in this legislation is the requirement that the holders of a mining tenure now be required to hold the environmental authority—rather than the operators, as was previously the case. I agree with the Minister that this should provide greater environmental security, because the owner of the asset—that is, the mining tenement—will be directly responsible for environmental management on that tenement.

Similarly, the requirement that the surrender of any mining tenure, apart from prospecting permits, will first require EPA approval for the surrender of the relevant environmental authority and a rehabilitation report is an important step forward. Queenslanders should not be left with the liability for repairing environmental damage after a mining project has finished.

The Minister touched on two specific amendments in his second-reading speech which I will refer to. The first amendment he referred to will seek to validate any environmental management overview strategy, or EMOS, that may have been varied in the past. Previously there was some doubt as to the legal standing of any variation of an EMOS. However, these have nevertheless been varied during the normal term of the mining lease. This amendment retrospectively recognises and validates any past changes to an EMOS.

However, one issue that springs to mind as a result of this amendment is that of outstanding legal action regarding any such change to an EMOS. The Opposition is aware of at least one such legal action currently. I am concerned that this amendment would rule null and void the rights of any such claimant to pursue that legal action against a mining company—essentially to deny those people the natural justice they are entitled to. This is a very serious issue and one which the Opposition would request the Minister to address in his reply.

The other amendment to which the Minister specifically referred is that which will allow compensation agreements between mining companies and land-holders to be varied when mining operations change and new previously unforeseen impacts result. This Bill provides a very welcome provision so that a new compensation agreement may be lodged with the mining registrar and, in cases where the two parties may not agree, the Land and Resources Tribunal makes the determination. I concur with the Minister's view that this provision will be warmly welcomed by land-holders in rural and regional Queensland.

The final issue I wish to canvass is that of the transitional arrangements that will be introduced and the arrangements with regard to special agreement Act sites. While some effort has apparently been made to ensure a smooth transition from the existing system to the new system, there are a couple of issues that arise as a result of that transition process. Specifically, provision has been made for the EPA to develop a system for environmental auditing of mining activities, by the EPA or an accredited EPA auditor, at the expense of the environmental authority holder. During our briefing with departmental officers, the point was made by them that all policy for audits is yet to be developed and that the relevant provisions in the Act will not be used until this is done.

The Minister did not make much mention of this in his second-reading speech, other than to say that he hoped to bolster the earning capacity of the consultancy industry. I would make two points in response. At what cost will this be to the miners? Exactly when will this audit policy be developed? Does the Government have any semblance of policy to guide its development? To what extent will the stakeholders be involved in the development process?

This issue of audits is also pertinent considering the commitment given by the Government in early 1999 to audit the operation of mines regulated under the special agreement Acts. When will that commitment be honoured, if at all? While it is perhaps a fair consideration that the Government should not change the rules in the middle of the game, so to speak, there must surely be some recognition that these mines do have regulations under which to operate and that the Government has a responsibility on behalf of all Queenslanders to ensure that mining companies are abiding by those regulations. These are fair expectations, and the Opposition and some other stakeholders would expect

a fair explanation. The Minister is going to have a fair bit of explaining to do; there are a lot of things that need to be explained.

The Bill also includes some amendments relating to the National Environment Protection Measure for the Movement of Controlled Waste Between States and Territories, the Nature Conservation Act and the Transport Infrastructure Act 1994. The Opposition does not have any problem with these as they stand.

In conclusion, this is an important piece of legislation that maps out a significantly different method of managing the mining industry's interaction with the Queensland environment. I would hope that the Minister can address the issues that we have raised in a satisfactory manner and that he and the Beattie Government will ensure that this new framework provides an effective and an efficient method of regulating the mining industry to the ultimate benefit of all Queenslanders. The Opposition will be closely monitoring the success of the new system and the EPA's performance, as I know all the stakeholders will.