Speech By

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MEMBER FOR MULGRAVE

MINING AND OTHER LEGISLATION AMENDMENT BILL

Mr PITT (Mulgrave—ALP) (4.54 pm): I rise to speak on the Mining and Other Legislation Amendment Bill 2012. This is a detailed piece of legislation which seeks to amend no fewer than 10 existing acts. That should give us some idea of the number of separate issues tied up with this one bill. The opposition can offer qualified support on a number of these amendments, but we will be seeking further detail from the minister on a number of others. As we have heard through the committee report process, there are still some elements in this bill that cause concern for the opposition, and we will throughout this debate and in consideration in detail run through those.

One of the key areas of this bill is the myriad changes it makes to the regulatory environment facing small scale miners—predominantly people who mine gemstones, opals and corundum. The opposition understands that the operations of small scale miners are significantly different than the operations of BHP, Rio Tinto, Xstrata and the like. Mining for precious stones such as opals is a very different process than coalmining, for instance. It is because of these differences that it is entirely appropriate that gemstone miners are regulated under a separate framework than more environmentally intensive large scale mining activities. I acknowledge the minister's attempt to simplify the regulatory framework for such miners.

The minister outlined in his introductory speech the importance of precious stone mining in Queensland and named a number of towns which have benefited from the industry. I would like to add to his point that the historical importance of gemstone mining to Queensland's history is written into our very geography. If you look at a map of Queensland, you can see such towns as Emerald, Sapphire and Rubyvale. These are all located in the area known as the gemfields and there are no prizes for guessing that gemstone mining is an important industry in the area.

The key change this legislation makes for small scale miners is the definitional change to a mining claim, allowing more miners to operate under this less restrictive tenure type. The legislation increases the maximum area of a mining claim from one hectare to 20 hectares. While the opposition understands the rationale behind increasing the maximum size of a mining claim, this is a significant change. This legislation would allow mining claims 20 times larger than those currently operating claims. I would ask the minister to provide further comment on the reasoning behind his decision to set 20 hectares as the maximum allowable mining claim area.

I do acknowledge that the ability for new small scale mining operations to work under mining claim tenures and the ability for existing operators to transition to a mining claim will benefit the industry. Perhaps the largest benefit such a change confers is that a number of small scale miners will no longer need to pay rent. Schedule 5 of the Mineral Resources Regulation 2003 provides that annual rent for a mining claim is zero, whereas it is $50.75 per hectare under a mining lease. This means that miners transitioning to a mining claim will save up to $1,015 annually. I ask the minister if the government has an estimate of how much revenue will be foregone as a result of this change. I

note that the explanatory notes outline the amount of additional revenue expected from the competitive tendering changes but not the amount foregone due to this change. It would also be interesting if the minister could outline the number of small scale miners he expects these changes to benefit. I do note that, regardless of the rental changes, small scale miners will still be required to pay a fee for applying for a mining claim or mining claim renewal of $319.80.

The other key aspect of this legislation in reducing the regulatory complexity of small scale mining is the simpler environmental framework of a mining claim as opposed to a mining lease. I take from the explanatory notes that mining claims do not need to operate under an environmental authority and will now need to submit a work program every five years, comply with a new small scale mining code under the Mineral Resources Act 1989, continue providing financial assurance to rehabilitate disturbed areas through prescribed conditions under the Environmental Protection Regulation 2008, comply with the general environmental duty and other requirements under the Environmental Protection Act 1994.

I note that the submissions from the Wildlife Protection Association of Australia, the Queensland Conservation Council and the Wilderness Society did not raise objections to these changes in their submissions to the Agriculture, Resources and Environment Committee. The Queensland Murray-Darling Committee did raise some objections, stating—

Even though the mining is small scale what happens if there is a number of small scale mining operations going on side by side or throughout a specific region? Should the cumulative impact of this type of scenario require a different assessment process?

I invite the minister to provide some more detailed information of the environmental restrictions for small scale miners, particularly the new small scale mining code.

I will now turn to the provisions of the bill concerning fossicking and Indigenous land use agreements. This is the section of the bill about which the opposition has some reservations. Let me start by saying that I am confident that changes can be made to make the process for fossickers accessing our native title land simpler. Unfortunately, it does not appear that the minister has engaged in an appropriately constructive consultation process with native title holders. Let me quote from the North Queensland Land Council's submission to the committee. It states—

If the re-evaluation of 'fossicking' as being 'a future act passing the freehold test in the NTA' is solely based on the fact that fossicking is a hobby and a recreational non commercial activity, that re-evaluation should be revisited. Aboriginal cultural sites such as middens and graves may be disturbed in the activity of fossicking on land that may still contain native title and it should also be taken into account that in some cases visiting the area may not be permissible from a cultural perspective. Accordingly, the impact of the act on land that may still contain native title is a matter that needs to be taken into account in any re-evaluation of 'fossicking'.

It is of concern to the opposition that both the Cape York and North Queensland land councils are opposed to these changes. It is completely understandable that native title holders guard their rights zealously, especially given how long it has taken for them to gain recognition of native title. Their worries regarding the potential disturbance to cultural sites like middens are reasonable. I do note that this legislation includes a provision requiring fossickers to seek written permission from native title holders before accessing their land. However, it is entirely unclear whether native title holders can place conditions on fossickers through this process.

The Agriculture, Resources and Environment Committee is also concerned about this matter, stating—

The committee invites the Minister to advise whether any legal advice was obtained to confirm that 'fossicking' is not considered to be 'mining' under the *Native Title Act 1993* (Cwth).

I am glad to see that the committee is questioning the minister on this point. It is my view that, even if these changes are legally sound, they may be ethically concerning.

Native title holders fought hard for recognition and they do not deserve to see their rights slide away piece by legislative piece. As I have already stated, I am sure that there are ways to simplify the process for fossickers wishing to access native title land that would meet the approval of both fossickers and native title holders, but that takes proper consultation. Again, I note the minister's points on this matter, but the opposition does have concerns about these particular amendments and how they will work in practice.

The bill also amends the Petroleum and Gas (Production and Safety) Act 2004 to allow the co-location of infrastructure land occupied by a pipeline. This includes linear infrastructure such as electricity transmission and telecommunications cables. I note that, in order to construct such incidental infrastructure, developers will still need approval from the minister. These changes are eminently sensible as they reduce the footprint of petroleum and gas operations while retaining appropriate safeguards. The opposition is happy to support these changes wholeheartedly.

I now move on to the next issue: the change to the definition of 'occupier'. I think everyone in this place would agree with me that this is a matter of legal interpretation which can nevertheless have significant effects on people all around Queensland. I will do my best to clarify what I believe is a very complex issue. Resource companies are required to compensate owners and occupiers of both public and private land if mining activities affect owners or occupiers. The Mines Legislation (Streamlining) Amendment Act 2012 amended the definition of 'occupier' and since that time there has been concern that some legitimate arrangements would leave parties using the land not being considered to be occupiers under the act—for example, when multiple parties are involved under family trusts, partnerships and other business arrangements. The Queensland Law Society has raised issues with this new definition, stating—

The Society believes the stated objective of the amendments may not be achieved by the amendments proposed. This is because the current drafting may not extend to freehold owners who give another a right to occupy a place by a means other than a registered lease.

I also note that the Agriculture, Resources and Environment Committee has recommended that the minister accept the Queensland Law Society's suggestion on the matter. I note the amendments flagged by the minister when he spoke earlier. They appear to move closer to the definition suggested by the Queensland Law Society. We will certainly be looking at the amendments more closely.

This bill makes a number of changes to legislation concerning the mining registrar. The bill transfers the powers of the mining registrar to the chief executive or minister. However, mining registrars will continue to operate but under delegated authority. The opposition recognises that these changes bring the Mineral Resources Act 1989 into line with more recent acts.

Queensland Labor has long supported the development of the Aurukun bauxite resource. The amendments contained in this bill are relatively minor. They extend the area's exemption from the Wild Rivers Act and allow the government to select more than one proponent to develop the area under the current tender process. While these amendments are minor, the opposition harbours concerns about the government's current tendering process for the Aurukun development. Notwithstanding the minister's comments earlier, we have made our views clear that any development in the area should include an alumina refinery and requirement for local employment. Queensland Labor wants to see real development in Aurukun which provides jobs to local people and secures an economic future for the region. We believe the alumina refinery is a key plank for this to happen. Unfortunately, it appears that the current tendering process for the area may sell the Aurukun community short and not have the appropriate local employment restrictions. I am happy for the minister to speak more on that because this is an important issue and we wish to see that the alumina refinery is given consideration for what it may mean for local employment. It also seems that this legislation may bell the cat on this tender process. So I will wait to see if the tender is awarded to more than one proponent.

Finally, I turn to the remaining part of the bill, the introduction of a competitive tendering process for mining exploration. This idea was first floated in the Queensland context in January 2012 by the previous Labor government. The introduction of a competitive tendering process including a cash-bidding component was also a recommendation of the Henry tax review initiated by the federal Labor government. I know the minister speaks often about the Henry tax review. This is a significant change to the regulatory environment for mining in Queensland and it would be remiss of the opposition not to seek further details from the minister. Unfortunately, from what we have been able to gather, the information provided has been scant as to how this competitive tendering framework will work. This has resulted in greater concern amongst miners than was necessary.

I note that both the Queensland Resources Council and the Association of Mining and Exploration Companies are opposing these changes. This should not come as a surprise. It is to be expected that the industry opposes further costs being placed on their businesses. That being said, it is interesting to see the LNP government jacking up the cost to the mining sector as it still stands and bellows about the federal government's minerals resource rent tax. Yet since taking office, the LNP

government has been increasing its take from the mining sector with massive royalty increases in the budget and now this competitive tendering process.

I would like to start with the suggestion by the Queensland Resources Council that a cash-bidding process is liable to potential corruption. I want to be clear here: I am not endorsing the Queensland Resources Council's position and neither am I suggesting that the minister has done or would do anything untoward. I have seen the minister's response to the Queensland Resources Council's initial statement on these matters and certainly again here today. Let me say I would not like to be on the minister's bad side, as the Queensland Resources Council currently is. However, I do think it is extremely important that the minister outline the probity process for the competitive tendering framework. I understand that, under this proposal, the Minister for Natural Resources and Mines will not have direct involvement in the process, which is significantly different from the New South Wales experience. Moreover, I appreciate that he has also advised that there will be an external probity adviser involved in the process. However, I would ask the minister if he could talk through in a little more detail how this process is envisaged to operate within his department and how those decisions will be made.

I move on to another issue raised by the Queensland Resources Council and the Association of Mining and Exploration Companies that this bill will shut smaller miners out of exploration, particularly in highly prospective areas. I think it would benefit the House and the industry for the minister to give a detailed explanation of what he and the department mean by 'highly prospective' and how that will be determined.

Another issue of some concern to the opposition is how the separate criteria under the competitive tendering process will be assessed. In highly prospective areas where cash bidding is used, will the secondary criteria of the capacity of an applicant to start operations in a timely fashion also be assessed? I ask this because a key argument by both the Queensland Resources Council and AMEC is that larger mining companies will be able to buy out exploration permits for areas but leave them undeveloped for a period of time. This strikes me as a legitimate concern. I find it difficult to understand how those competing interests of cash bidding and capacity can be judged simultaneously in an objective manner. I would also appreciate if the minister could step us through how the government sees this process working.

The opposition will be listening to further debate on this bill—and particularly to the minister's responses—with keen interest. While some aspects of the bill are acceptable, the opposition has reservations about other elements. We look forward to the minister's response.