




Speech By
Hon. Dr Steven Miles
MEMBER FOR MOUNT COOT-THA

Record of Proceedings, 13 September 2016

**ENVIRONMENTAL PROTECTION (UNDERGROUND WATER MANAGEMENT)
AND OTHER LEGISLATION AMENDMENT BILL**

Introduction

 **Hon. SJ MILES** (Mount Coot-tha—ALP) (Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef) (3.27 pm): I present a bill for an act to amend the Environmental Protection Act 1994, the Mineral Resources Act 1989, the Queensland Heritage Act 1992, the Water Act 2000 and the Water Reform and Other Legislation Amendment Act 2014 for particular purposes. I table the bill and the explanatory notes. I nominate the Agriculture and Environment Committee to consider the bill.

Tabled paper: Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 [\[1496\]](#).

Tabled paper: Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016, explanatory notes [\[1497\]](#).

I am pleased to present to the House a bill to better manage the environmental impacts of groundwater take by the mining industry and to protect the interests of farmers and other landholders whose groundwater is impacted by resource industry activities. The Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 will ensure that environmental assessment under the Environmental Protection Act 1994 will scrutinise the environmental impacts of groundwater take by mining activities as part of the application for an environmental authority.

This bill strengthens the assessment of environmental impacts related to groundwater take by resource activities. In doing so, this bill modifies the framework established by the Water Reform and Other Legislation Amendment Act 2014—known as the WROLA. This bill complements other amendments to that act, which will be delivered by the Water Legislation Amendment Bill 2015.

The bill addresses the widespread concern about the WROLA Act's so-called unlimited right to take. If that right to take went ahead it would grant mining operators an unlimited right to take groundwater without adequate regulatory scrutiny or oversight. Members will recall that stakeholders were worried about the impacts of the underground water rights on the environment and also upon other users of underground water resources, particularly farmers and other agricultural users. This bill addresses both these concerns with tailored amendments to existing obligations and processes. This bill moves to address this issue in future under Queensland environmental protection laws administered by the state's environmental regulator.

This bill also strengthens the assessment undertaken as part of an environmental authority application. In future, the environmental impacts of groundwater extraction by any mining operator will be addressed by this process rather than through a water licence. In doing this the bill also provides a streamlined process for the mining industry. In future, new mining project proponents will have the

authorisation of their groundwater impacts and other environmental related impacts dealt with by a single regulator giving approval under a single environmental authority and being subject to one process of scrutiny and objections before the courts. This is a common-sense approach.

The bill also provides for proper oversight during the operational phase of mining operations by drawing a clear link between the underground water impact reports performed under the Water Act and the requirements of the environmental authority. The bill requires underground water impact reports to include additional information about impacts on environmental values resulting from the exercise of underground water rights. To ensure that any identified impacts are appropriately managed, the bill provides that the environmental authority may be updated to address the findings of an underground water impact report.

The second major feature of this bill is that it protects the interests of farmers and other landholders whose groundwater is impacted by resource industry activities. This will be achieved by improving the existing make-good obligations under the chapter 3 underground water management framework in the Water Act 2000. This bill strengthens protection for farmers and other rural landholders. That is the right thing to do for those landholders and it is also the right thing to do to secure the long-term future of Queensland's gas industry.

This bill delivers several improvements to make-good obligations. Most important for many farmers, this bill ensures that make-good obligations will be triggered if a bore is impaired by free gas. Free gas is formed during coal seam gas production when the released gas migrates from areas of high pressure to low pressure. A recent report by the Department of Natural Resources and Mines concluded that water bores can become impaired by free gas even if the water level of the bore is unaffected. Impairment by free gas can take the form of damage to infrastructure, resistance to flow, water quality impacts and explosive risk. This bill will ensure that if bores are affected by free gas during coal seam gas extraction the landholder will be protected by the triggering of their make-good agreement. Impairment by free gas and consequent explosion risk can be addressed in the make-good agreement by, for instance, capping a bore and providing a new bore at a better location.

The bill also expressly requires that make-good obligations are to arise where the exercise of underground water rights is the likely cause of the impairment even if there is some scientific uncertainty. This is a significant improvement to the rights of landholders. The bill provides for a cooling-off period for make-good agreements and also provides that resource companies will be required to bear the costs of any alternative dispute resolution process. This will ensure that landholders are not inhibited in fully engaging with the process to obtain good outcomes for both the resource company and the landholder through the make-good provisions.

Finally, the bill provides that resource companies operating under chapter 3 make-good arrangements will be required to pay the landholder's reasonable costs in engaging a hydrogeologist. Access to this expert advice can have critical importance to farmers who are seeking to negotiate an appropriate make-good agreement that will protect their families' future. Access to this advice will enable landholders to engage in the process in an informed manner.

Together these proposed amendments will ensure that landholders are not in a disadvantaged negotiating position and are fairly compensated for impacts on their infrastructure or on their water resources. The bill provides continuity and stability for businesses that have existing project proposals on hand and which are well advanced in their approval process. The bill does this by amending the Water Act to require that these mining projects will be required to seek an associated water licence. This associated water licence will involve an environmental impact test with outcomes comparable to that which will be required for new projects through the EP Act amendments. This approach will ensure environmental scrutiny of groundwater extraction impacts while also affording companies with a project that is underway with stability in completing their assessment process.

Importantly, as part of the approvals process the associated water licence will remain subject to current rights for third parties to be heard, the right to make submissions and the right to merit based appeal. The bill makes an amendment to provide consistency in the general administrative arrangements for environmental authority applications under the Environmental Protection Act. This corrects an oversight from previous amendments which ensured that Queensland has an independent process for environmental authority decisions, but failed to extend that independence to applications which have been underway for several years. This correction brings ongoing applications in line with contemporary processes.

The bill also makes minor amendments to the Queensland Heritage Act 1992 to ensure that local government has the capacity to appoint appropriate authorised persons to support local government functions in relation to local heritage places under the Queensland Heritage Act. This was an oversight that is now corrected by this bill.

In preparing the bill the Department of Environment and Heritage Protection and the Department of Natural Resources and Mines have consulted with key stakeholders on these issues through the water engagement forums which were held on 7 March, 29 April and 6 September 2016. The water engagement forums include stakeholders such as AgForce, the Association of Mining and Exploration Companies, the Australian Petroleum Production and Exploration Association, the Environmental Defenders Office, the Local Government Association of Queensland, the Queensland Conservation Council, the Queensland Resources Council, the Wilderness Society and the World Wide Fund for Nature Australia. I thank all stakeholders for their valuable input during the forums which has contributed to the constructive changes presented in this bill.

First Reading

Hon. SJ MILES (Mount Coot-tha—ALP) (Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef) (3.37 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Agriculture and Environment Committee

Mr DEPUTY SPEAKER (Mr Elmes): In accordance with standing order 131, the bill is now referred to the Agriculture and Environment Committee.