Speech By

Hon. Dr Steven Miles

MEMBER FOR MOUNT COOT-THA

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

Hon. SJ MILES (Mount Coot-tha—ALP) (Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef) (4.33 pm): I move—

That the Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 be now read a second time.

There is no denying the fact that water is a critical resource. Australia is the driest continent on earth—our priceless groundwater systems need to be carefully safeguarded and shared fairly to support our natural environment and all who depend on it. These safeguards are important to ensure prosperity now and in the future.

In sun-drenched Queensland our underground water reserves may be out of sight but they are the lifeblood of farming communities, vital for resource industry projects and crucial for healthy landscapes. Queenslanders need a framework for managing groundwater that strikes a balance between competing uses but does not jeopardise the quality and accessibility of this all-important resource. I am pleased to bring a bill to the House that restores protections to managing groundwater that were trashed by the previous Newman-Nicholls government.

Complementing the Water Legislation Amendment Bill, the EPOLA bill addresses deficiencies in the Water Reform and Other Legislation Amendment Act 2014, known as the WROLA Act. This bill amends a number of acts to better manage the environmental impacts of underground water extraction by the resources industry and to protect the interests of farmers and other landholders whose groundwater is affected by resource industry activities.

Based on their performance last week, I imagine those opposite will focus their contribution in this debate on one particular project. Let us be clear about their murky involvement in that project. Campbell Newman sat at Alan Jones's kitchen table and told him that if the LNP won the election they would not support that project. At the same time the member for Mansfield was accepting a $2,000 cheque from a director of the company and the member for Glass House was heading off to see the Wallabies with them.

All through the election campaign, the LNP made strong commitments that that mine would not proceed because of the impact it would have on farming land, but after a whopping $700,000 in donations to the LNP and party branches, they approved it. They approved a project that has the potential to cause groundwater to drop by up to 50 metres and impact 350 water bores, destroying 1,300 hectares of strategic cropping land. At the same time they stripped the rights of citizens to object. We are here today to prevent these Newman-Nicholls' laws that allowed unlimited take of groundwater for large-scale mining projects from ruining farmers' livelihoods and destroying regional communities.

Ms SIMPSON: Madam Deputy Speaker, I rise to a point of order. There has been a ruling from the Speaker with respect to appropriately naming members in this place and also with respect to previous governments. I draw Madam Deputy Speaker to the Speaker's rulings.

Madam DEPUTY SPEAKER (Ms Linard): The member for Maroochydore's point of order is correct and upheld. I ask that you refer to the previous government by its appropriate name.

Dr MILES: I will rephrase. We are here today to prevent these laws of the previous government that allowed unlimited take of groundwater for large-scale mining projects from ruining farmers' livelihoods and destroying regional communities.

The bill introduces a strong new environmental assessment framework that will apply to future resources projects. With this bill we will actually streamline the process for mining companies seeking approvals on future projects. We will do this without stopping the community from having their say.

Amendments to the Environmental Protection Act will require resource companies to assess their project's impacts on groundwater—and propose strategies for avoiding, mitigating or managing these impacts—as part of the environmental authority application. This will ensure rigorous assessment of the impacts of resource activities on underground water up-front, before operations commence. The new requirements only apply to those applications which are subject to the higher level assessment process. They will not affect those projects with known and manageable impacts which proceed through a less rigorous assessment process.

The bill also provides for improved environmental oversight during the operational phase of mining operations. The bill modifies the existing underground water impact report process in the Water Act to include an assessment of actual against predicted environmental impacts of taking groundwater and, if relevant, provides the capacity to update predictions about future impacts.

Given the uncertainties inherent in groundwater modelling, it will rarely be possible to predict future impacts with 100 per cent accuracy. These amendments to both the Water Act and the Environmental Protection Act facilitate ongoing adaptive management, allowing for adjustments to be made in response to known impacts and any changes to predicted impacts.

I have been encouraged by the support that the majority of stakeholders demonstrated for these amendments. It is clear to me that this approach delivers a well-targeted and streamlined assessment process that applies the appropriate level of environmental scrutiny.

The improved assessment framework in the Environmental Protection Act is supported by amendments to the make-good framework in chapter 3 of the Water Act. These amendments have received wideranging support. The amendments to chapter 3 ensure that the resource industry is aware of its obligations to make good with landholders. Members of the House are well aware that the resource industry has a heavy reliance on groundwater and enjoys significant access to underground water rights. With this access comes an obligation to other groundwater users in the form of make-good agreements. Make-good measures are undertaken by resource tenure holders to compensate a bore owner for impairment of a groundwater bore which results from the company's statutory right to take groundwater. Make-good obligations are delivered through a process of negotiation between the miner and the owner of the bore. A negotiation process can only deliver a fair outcome for both parties if there is a level playing field between the parties in terms of bargaining power.

To start with, the amendments in this bill include an important clarification that make-good obligations apply where there is a reasonable likelihood, as opposed to a certainty, that resource activities have caused or contributed to groundwater impacts. If in doubt, resource companies need to make good. This is an entirely appropriate recognition of the uncertainties that can exist in our understanding of groundwater systems. It means that individual farming families will not be left alone to shoulder an unfair burden. Scientific uncertainty should not be an excuse for avoiding make-good obligations.

The bill proposes several other important changes to the make-good framework in the Water Act to strengthen the bargaining power of farmers and other rural landholders and level the playing field for negotiation of make-good agreements by, firstly, ensuring that bore owners have access to the professional hydrogeological advice they need; secondly, removing financial barriers to bore owners who take advantage of the alternative dispute resolution process; and, thirdly, providing a cooling-off period to ensure that landholders can reflect with a cool head and ensure that they are not hurried into inappropriate make-good agreements.

The bill also deals responsibly with advanced mining projects that are still going through their approvals under the old arrangements. Transitional arrangements are proposed to ensure that advanced mining projects are still subject to a water licence process, in keeping with community expectations. These companies will be required to seek an associated water licence to allow them to

finish the approvals process in a very similar manner to which they started. The transitional provisions will cover those projects that are currently in the approval process that will not be subject to the strengthened Environmental Protection Act. The requirement for these projects to obtain an associated water licence will ensure a smooth transition to the new impact management framework.

The bill also includes unrelated amendments to the Queensland Heritage Act to correct an oversight to ensure that local government has the capacity to appoint appropriate authorised persons in relation to local heritage and the Environmental Protection Act to provide consistency in the administrative arrangements for environmental authority applications.

I thank the Agriculture and Environment Committee for its consideration of the bill. I also thank the individuals and groups for their time in preparing submissions on the bill and participating in the committee's public hearing. The committee tabled its report on 25 October 2016, putting forward two recommendations. Before turning to these recommendations, I table the government's response to the committee report which addresses the committee's recommendations.

Tabled paper: Agriculture and Environment Committee: Report No. 25—Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016, government response [2032].

The first recommendation was that the bill be passed. This recommendation reflects the bill's approach to the sustainable management of our precious underground water resources. The committee's second recommendation was that an examination be made on relevant mining licence holders' short-term prospects and the resulting impacts on affected communities. The committee requested that the findings of this examination be presented in this speech. I will address that recommendation now.

Firstly, the government notes the concerns raised by submitters and reflected in the committee report regarding those projects that are nearing commencement of operations either of a new mine or an expansion of an existing mine. We are talking about mining projects that have already commenced the approvals process for an environmental authority and, as such, would qualify for an associated water licence in the bill. Let us be clear: mines in Queensland have been required to obtain a water licence for some 20 years. For companies that have applied for or been granted an EA but have not yet secured a water licence, we are simply asking them to obtain a water licence from the DNRM, as has always been the case. For new projects, there will be a streamlined environmental assessment that includes groundwater impacts. For more advanced projects, it is business as usual. One way or another, we must ensure that groundwater impacts have been assessed and the community consulted.

Proponents who need to commence taking associated water in the near future can and should contact the Department of Natural Resources and Mines to discuss how they may prepare for transitioning into the new framework. Early discussions will ensure mining companies can transition into the new framework in the smoothest and most efficient way. In turn, this could provide the certainty being sought by communities which are dependent on mining projects for economic and employment opportunities.

I have been advised that the Department of Natural Resources and Mines has discussions underway in relation to an application for a water licence for one new mining project. This company is well positioned to meet the information requirements for an associated water licence. In the absence of this bill, in order to commence dewatering, mining projects would need to have either obtained a water licence from the DNRM under the current law or submitted an underground water impact report to the DEHP under the post WROLA law. The fact that there have been few companies—just the one—approaching the DNRM for prelodgement discussions about a water licence, and I am not aware of any companies that have approached the Department of Environment and Heritage Protection for a prelodgement discussion about an underground water impact report, can only suggest that there are few, if any, mining projects with an urgent need to commence dewatering.

Without any indication of any imminent need to commence dewatering, any delays to mining projects are highly unlikely. For the one company that has approached the DNRM, I emphasise that the bill deliberately includes provisions to transition an application made under the current framework into an associated water licence application under the new framework to ensure there are no administrative delays for applicants. Resource companies will be well aware of the need to obtain a water licence before they start taking or interfering with underground water.

Adhering to the current regulatory requirements is an entirely sensible and rational approach for any company to take, whereas relying on the non-commenced LNP WROLA Act that received clear opposition from a wide range of stakeholders is a gamble that is not worth taking. I will add that, even if a proponent anticipated the WROLA Act would remove the need for a water licence, the proponent would also be aware that that act requires them to submit a draft underground water impact report

before they commence taking water for dewatering purposes. This requirement was present even in the Newman era legislation and will continue here. Either way, there should be no surprises. The committee notes this very clearly on pages 5 and 6 of its report—

a) mining licence holders will have been aware of the potential for legislative amendment, and

b) affected mining licence holders have had sufficient time to apply for a water licence under the currently-applicable provisions of the Water Act, or to prepare themselves to do so.

I would like to make it very clear that any work undertaken to support either a water licence process or an underground water impact report should be readily applied to an application for an associated water licence. To start dewatering, mining projects will need one or the other, not both. Therefore, this is not wasted work or duplication. It is expected that projects that have already commenced the approvals process, including those nearing completion of approvals, have been preparing to meet the regulatory requirements based on the current regulatory framework.

This government is committed to consultation. We have carefully considered the comments of the parliamentary committee. We have listened closely to members of the House and stakeholders. We have reached a conclusion that it is possible in this legislation to provide recognition to previous court processes which have conclusively examined water impacts. As such, I will be moving amendments today that make this abundantly clear. These amendments will provide for streamlining of the assessment process for associated water licences. These amendments show that this government really listens. The associated water licence regime has been designed to respond to community expectations that impacts on the environment and other groundwater users should be appropriately assessed.

I will now move on to the amendments to the bill. In response to issues raised in submissions to the Agriculture and Environment Committee and to correct minor errors and clarify the intent of particular provisions in the bill, I will move several amendments during the consideration in detail stage of the bill. I table the amendments to be moved during consideration in detail and the explanatory notes.

Tabled paper: Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016, amendments to be moved during consideration in detail by the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef, Hon. Dr Steven Miles [2033].

Tabled paper: Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016, explanatory notes to Hon. Dr Steven Miles's amendments [2034].

These amendments will ensure the efficient operation of the provisions on commencement. The majority of these amendments are to correct minor errors—for example, an error in the commencement clause and an error arising from a change in drafting style in the Queensland Heritage Act.

There are four more significant amendments which I would now like to talk to in more detail. During the committee's consultation on the bill, significant support was expressed for the proposed inclusion of a cooling-off period for make-good agreements. Stakeholders from both the agricultural sector and the resources sector have proposed a refinement to the cooling-off period that is mutually beneficial. I will move amendments to the bill which will provide a bore owner with a five-day cooling-off period which will apply to make-good agreements signed at any point in the negotiation process. This will replace the previous variable length cooling-off period which applied only in the initial stage of negotiation.

The second amendment which I would like to speak to also responds to concerns raised during the committee process. While the resources industry demonstrated support for facilitating landholder access to hydrogeological advice in negotiating make-good agreements, the resource industry also expressed a need to ensure that such advice would be constructive and of high quality. In that regard, I will move an amendment that will require any person providing hydrogeological advice under this provision to have the minimum qualifications or experience which will be identified in the bore assessment guidelines prescribed under the act.

The third amendment is proposed simply for the purposes of clarification to avoid any doubt in interpretation. The requirement for an associated water licence applies to mine expansions without a current water licence, regardless of the format of the environmental authority application. I will move an amendment to make this very clear to the reader in plain English.

I am also proposing an amendment that will, on a case-by-case basis, reduce any duplication that may exist between the associated water licence application process and other assessment processes. This will be achieved by allowing associated water licence applications to be exempt from public notification if the mining project has already been through an EIS process and a Land Court objections hearing in which objectors tested the groundwater modelling undertaken by the project proponent with expert evidence of their own. This exemption will only apply if the Land Court process was completed prior to the introduction of the bill. This will ensure that a streamlined process exists to avoid repeated public notification in circumstances where the groundwater issues have already been

fully ventilated and tested in the independent Land Court and the Land Court has delivered its recommendation or decision prior to the bill's introduction. I am ensuring that the associated water licence process will link seamlessly with the underground water framework under chapter 3 of the Water Act and the environmental authority process by requiring consultation with the agencies administering those provisions before an AWL is granted.

Finally, I will move an amendment that will strengthen the expertise and knowledge between environmental regulators dealing with water issues. The proposed amendment requires that the director-general of NRM, prior to using powers to deal with an AWL, must consult with the director-general of EHP before each decision. I am pleased with this step towards harmonising and linking the important work of NRM and my agency. I will direct the director-general of EHP that he is to form his opinion regarding whether projects that qualify for this recognition have indeed had their groundwater impacts appropriately assessed based on advice from an independent panel. The panel will be formed by the director-general of EHP and the director-general of NRM and will comprise the Queensland Chief Scientist and three other members qualified in the law, public administration and natural resource matters.

The Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 will provide the environment department with greater powers to scrutinise and address groundwater extraction impacts. The previous government removed the requirement for a water licence. This bill will provide a sensible approach, ensuring that all new resource projects are subject to a proper environmental assessment of groundwater impacts before an environmental authority is issued. The associated water licence regime for projects which have proceeded partly or completely through their approvals process will ensure that projects which have not been subject to the strengthened Environmental Protection Act process will be assessed through a comparable process which will include rights for the community to be heard.

The bill addresses the needs of disparate water users to create a transparent, streamlined and environmentally responsible approach to allocating underground water rights. For the community, the bill will ensure groundwater impacts are properly considered and can be scrutinised by the public and the courts. For the resources industry, there is a streamlined process that better integrates groundwater assessment into the environmental impact assessment process. For landholders, the bill not only provides a positive step forward for improved groundwater management, it also will assist landholders to better negotiate make-good agreements with resource companies. I commend the bill to the House.