Speech By

Hon. Scott Stewart

MEMBER FOR TOWNSVILLE

Record of Proceedings, 16 June 2021

RESOURCES AND OTHER LEGISLATION AMENDMENT BILL

Introduction

Hon. SJ STEWART (Townsville—ALP) (Minister for Resources) (3.26 pm): I present a bill for an act to amend the Mineral Resources Act 1989, the Petroleum Act 1923, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Transport Operations (Passenger Transport) Act 1994 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes, and to repeal the Personalised Transport Ombudsman Act 2019. I table the bill and explanatory notes and the statement of compatibility with human rights. I nominate the Transport and Resources Committee to consider the bill.

Tabled paper: Resources and Other Legislation Amendment Bill 2021 885.

Tabled paper: Resources and Other Legislation Amendment Bill 2021, explanatory notes 886.

Tabled paper: Resources and Other Legislation Amendment Bill 2021, statement of compatibility with human rights 887.

I am pleased to introduce the Resources and Other Legislation Amendment Bill 2021. This bill will ensure the continued effectiveness of key regulatory frameworks within the resources portfolio. It amends the Minerals Resources Act 1989 and the Petroleum Act 1923 to provide certainty to industry and community stakeholders by clarifying the validity of certain historically granted tenures and the standing of existing applications. The bill also includes amendments to repeal the Personalised Transport Ombudsman Act 2019 and a consequential amendment to the Transport Operations (Passenger Transport) Act 1994, which are administered by my colleague the Hon. Mark Bailey MP, Minister for Transport and Main Roads. This bill also amends the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 and the Water Supply (Safety Reliability) Act 2008, which are administered by my colleague the Hon. Glenn Butcher MP, Minister for Regional Development and Manufacturing and Minister for Water.

The bill amends the Mineral Resources Act 1989 to validate certain mining leases which may have administrative deficiencies. Prior to 2012 mining leases in Queensland were granted by the Governor in Council based on a recommendation by the minister. Up until 2010 the minister was also required to recommend to the Governor in Council that an instrument of lease be issued. The Department of Resources has identified there were 86 mining leases for coal and 847 mining leases for other minerals that have one of the following or both administrative deficiencies: firstly, the minister did not recommend the issuing of the lease; secondly, the instrument of lease was not issued to the holder.

To make it clear, prior to 2010 when recommending the grant of the mining lease, the minister was required to also make a recommendation to the Governor in Council that an instrument of lease be issued under previous section 271(1)(a). My department is aware of some grants where the minister of the day did not include the recommendation to issue the instrument of lease to the Governor in Council.

In addition, it was administrative practice up until 2010 to not routinely issue instruments of lease. New holders were sent letters advising of the grant of the lease, including conditions, and were able to request an instrument of lease if they required it. There are potentially two deficiencies—the first is that no lease instrument was provided to the holder and the recommendation required under section 271(1)(a) was not made. These are the deficiencies we are seeking to address. These administrative deficiencies cast some doubt on the validity of these mining leases. This issue will be addressed by inserting a clarifying amendment to confirm the validity of these historical mining leases.

It is important to note that these amendments will only validate these grants to the extent that they are impacted by one or both of the identified administrative deficiencies. They do not impact any other aspects of the mining leases or associated approvals and agreements. As these leases were all approved prior to 2010, these proposed amendments are, by necessity, retrospective in effect. However, they are crucial to ensure certainty for the holders of these mining leases and ensure that they can continue to operate with confidence.

The bill also amends the Petroleum Act 1923 to clarify the standing of validly made applications to renew production leases under the Petroleum Act 1923 where the decision to renew is made after the term of the lease has expired. For other tenures across the resources acts, provisions are included to ensure that, where a validly made application for tenure renewal has been made but not decided prior to the expiry, the tenure continues in effect until a decision on the application is made. However, the Petroleum Act 1923 is silent on this issue for renewals of production leases.

These proposed amendments will clarify that, where a validly made renewal application is made but not decided prior to the expiry, the lease continues in effect until the application is decided or otherwise resolved. They will remove any ambiguity that might exist in the Petroleum Act 1923 in relation to production lease renewals, confirm the department's longstanding administration of these applications and bring these provisions in line with other similar provisions that preserve existing rights whilst a renewal decision is pending. As this ambiguity impacts on a number of historical renewal decisions, the amendments will also apply retrospectively. This is necessary to remove any doubt that leases renewed before the commencement of the proposed amendments were validly renewed, even if they were decided after the expiry date of the lease.

The proposed amendments to the Petroleum Act 1923 also address an issue which relates to provisions that expire on 1 November 2021 and that are relevant to the administration of authorities to prospect and the grant of new leases. All authorities to prospect and new production leases will be administered under the Petroleum and Gas (Production and Safety) Act 2004 from 1 November 2021. However, there are no transitional provisions for authorities to prospect that are subject to applications for new leases under the Petroleum Act 1923 but which may remain undecided on 1 November 2021. In the absence of legislative intervention, these authorities to prospect will expire and the associated lease applications will lapse.

This amendment will provide clarity to holders of authorities to prospect who have made a valid application for a production lease before 1 November 2021, that their authorities to prospect will continue in effect despite the expiry of the relevant provisions and despite section 25U of the Petroleum Act 1923 which provides that all authorities to prospect expire on 1 November 2021. It will also ensure that any outstanding decisions on the associated production lease applications can be made after 1 November 2021 if required. These changes do not alter the criteria for decision; they simply provide more time. Any authorities to prospect that are not subject to an application for a production lease will not be preserved and will expire in line with the current provisions.

This bill will also repeal the Personalised Transport Ombudsman Act 2019. This act was to provide for the establishment of the Personalised Transport Ombudsman to investigate and facilitate resolution of complaints relating to personalised transport services. The establishment of the Personalised Transport Ombudsman was deferred in September 2020 due to the significant impacts of the COVID-19 pandemic on the personalised transport industry. At the same time, the Palaszczuk government announced that it would review the proposed powers of the Personalised Transport Ombudsman. The Department of Transport and Main Roads has since undertaken this review. It has become evident that establishing the Personalised Transport Ombudsman will provide limited benefits to industry or other stakeholders and does not have a role to play in supporting the recovery of the industry following COVID-19.

We have found that complaint numbers under the new framework are low and what is really needed by industry is access to independent mediation services to assist the industry to resolve complex matters. The industry continues to be affected by reduced patronage numbers and a shortage of drivers as a result of the impacts of COVID-19. The establishment of the Personalised Transport

Ombudsman would not have supported a stronger industry recovery from the pandemic and would have created an additional regulatory burden. The Personalised Transport Ombudsman was estimated to cost $5 million over three years, allocated from within the existing department budget. This cost is no longer considered justified given the financial impacts of the COVID-19 pandemic, competing budget priorities and limited benefits the Personalised Transport Ombudsman is expected to provide for industry.

The bill will respond to current industry views and reduce government expenditure by repealing the Personalised Transport Ombudsman Act 2019. The Department of Transport and Main Roads will take appropriate action to ensure existing complaints handling procedures are effective at a significantly reduced cost to government, and to develop mediation services at no cost to industry. A minor consequential amendment to the Transport Operations (Passenger Transport) Act 1994 is also proposed as a result of the repeal of the Personalised Transport Ombudsman Act 2019.

The water restriction amendments in the bill aim to ensure a consistent and equitable water restrictions framework for South-East Queensland and apply only to distributor-retailers Urban Utilities and Unitywater. The amendments will achieve a consistent regulatory framework for all South-East Queensland water service providers whether they are local councils or distributor-retailers. These amendments will ensure that, should South-East Queensland water levels decline to a level that water restrictions are triggered, all water providers have the ability to enforce restrictions to ensure our precious water resources are managed appropriately for the benefit of the community.

These proposed amendments are required to enable Urban Utilities and Unitywater to appoint authorised persons empowered to undertake investigation and enforcement actions against water restriction offences. Specifically, it is proposed that these authorised persons will have the same powers of entry as local government officers to search for evidence of potential noncompliances with water restrictions. The appointed persons will also be authorised to implement necessary enforcement or compliance actions, such as issuing penalty infringement notices.

Combined, Urban Utilities and Unitywater service nearly two million people and approximately 62 per cent of the South-East Queensland region. Local government water service providers Logan, Gold Coast and Redland city councils each have investigation and enforcement power for water restriction offences under the Local Government Act 2009. However, due to a historic anomaly, this power is not available to Urban Utilities and Unitywater. This means that, under the current legislative framework, water restrictions are not able to be enforced on a significant majority of the South-East Queensland population. Whilst most Queenslanders act responsibly during tough times, it is important that our laws in this regard apply equally to everyone. The amendments in the bill are supported by both Urban Utilities and Unitywater and simply seek to remedy a historical anomaly so that distributor-retailers have the same investigation and enforcement powers for water restriction offences as local government providers.

This bill also progresses amendments to the Water Supply (Safety and Reliability) Act 2008 to exclude the requirement for water service providers to make publicly available highly sensitive cybersecurity information and reporting metrics. Having this sensitive information publicly available, either online or via request, may make Queensland's water service providers vulnerable to malicious cyber attacks and place a community's water supply at risk. An application for such information can be made and considered under Queensland's Right to Information Act 2009 and Information Privacy Act 2009.

However, it is anticipated that highly sensitive information will not be released through this process. It is proposed that water service providers will continue reporting on cybersecurity measures to the water supply regulator, that being the chief executive responsible for administering the Water Supply (Safety and Reliability) Act 2008, but specifically exclude those measures from being made publicly available. The proposed amendments to the Water Supply (Safety and Reliability) Act 2008 seek to ensure the protection of sensitive information and mitigate cybersecurity threats for all Queensland water service providers. I commend the bill to this House.

First Reading

Hon. SJ STEWART (Townsville—ALP) (Minister for Resources) (3.40 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 Transport and Resources Committee

Madam DEPUTY SPEAKER (Mrs Gerber): Order! In accordance with standing order 131, the bill is now referred to the Transport and Resources Committee.