Speech By

Hon. Scott Stewart

MEMBER FOR TOWNSVILLE

Record of Proceedings, 9 November 2022

COAL MINING SAFETY AND HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. SJ STEWART (Townsville—ALP) (Minister for Resources) (11.36 am), in reply: I would like to thank all honourable members for their participation in this debate. We have heard from just about every speaker that the most important resource to come off our mine sites are our workers and I totally agree with that. This bill is about the safety of our workers. The bill also addresses concerns regarding the implementation of the direct employment requirements raised by stakeholders. These changes will ensure companies have practical ways of implementing the direct employment requirements, which, I remind the House, are already law and have been since May 2020, and do not reasonably disrupt their corporate structures and employment arrangements after 25 November this year when they will come into full effect.

These amendments aim to provide industry with more flexibility for complying with the requirements; enable affected companies to continue to access existing employment arrangements under existing company structures; avoid additional costs companies might otherwise incur in employing personnel to statutory positions surplus to requirements to avoid being in breach of legislation; and ensure the original intent of the direct employment provisions are maintained so that holders of statutory positions can make safety complaints, raise safety issues or give help to an official in relation to a safety issue without fear of reprisal or impact on their employment. The bill does this by making changes that add flexibility while maintaining the safety objective of these requirements. It ensures responsibility for safety is not fragmented across multiple employers resulting in silos of risk. Rather, that the coalmine operator, the entity ultimately responsible for the coalmine and the safety of its workers, remains the central point of responsibility. I will now address specific issues raised by members during the debate.

I begin by commenting upon the disingenuous nature of the opposition and the member for Maiwar regarding their repeated references to the Mining and Energy Union during the debate. The opposition have placed on record an amendment seeking a further 12 months at the request of industry while repeatedly referencing the Mining and Energy Union's perspective on aspects of these amendments. Let me be clear: the opposition is not the friend of mineworkers. Let me remind those opposite that they voted against industrial manslaughter legislation. A further 12-month extension of this bill will not resolve the opposing views that consultation highlighted and that have not been resolved in the 2½ years since these laws were passed. Government has sought to make amendments in response to industry concerns while maintaining the original intent of the legislation.

I now turn to the comments of the member for Maiwar. It is unsurprising that the Queensland Greens did not understand a bill concerning an industry and workers that they would rather do not exist. For their benefit, the bill seeks to strengthen the safety and health culture in our resources sector. Direct employment requirements specifically mean a person must be a permanent employee of the coalmine

operator to be appointed to certain statutory positions as opposed to contracted labour, as the member suggests. Our government wants to enable and empower workers to do the right thing and speak up regarding safety and health issues and to not feel impeded by their employment status.

The member for Maiwar also stated that the Isaac Regional Council submission raised concerns that this will further entrench contract or labour hire practices meaning fewer people living in the regions. It does not. The only people who want fewer people living in our regions are the Greens. Not only do they not understand the coal industry; they do not want the industry to exist full stop. It is only a Palaszczuk government that supports the coal industry and its workers in regional Queensland.

As I stated earlier, the opposition has proposed an extension until November 2023 before the bill comes into force. I will be clear: the bill does not impose any further requirements or restrictions. Rather, it provides limited exceptions to the direct employment requirements that come into full effect on 25 November this year. The exceptions in this bill, therefore, need to start simultaneously with the existing direct employment requirements coming into full effect to ensure industry can comply with those requirements. Further delaying the bill or the commencement of the direct employment requirements for additional consultation is not warranted. Stakeholders could not reach agreement on exceptions, particularly the 80 per cent exception, despite having a year to reach agreement. Further delaying the commencement of the bill would delay these much needed safety reforms.

The opposition raised concerns about the shortness of the committee process. The amendments have been developed following a yearlong consultation process, with stakeholders also providing feedback on the draft consultation bill. That yearlong process was preceded by an 18-month period since the laws were passed during which stakeholders had every opportunity to articulate their concerns. The direct employment requirements were incorporated into the Coal Mining Safety and Health Act 1999 on 25 May 2020, with an 18-month transition period that would have ended on 25 November 2021. However, it was towards the end of the transition period that industry began to outline these challenges. It is unfortunate that industry did not raise these issues in a clear and informed manner earlier. In response, further amendments were made to extend the duration of the transition period until 25 May 2022. This was to allow time for industry to fully articulate the challenges to implementation and, with unions and the government, seek to identify solutions to these challenges. We will always work with stakeholders to get the balance right and that is what we have done for the past 12 months. That is what good governments do.

At my direction, in late 2021 the Commissioner for Resources Safety & Health convened a tripartite working group to work through implementation challenges and identify potential solutions. The working group reached consensus on some but not all of the issues raised. Following consideration of the working group's advice and the possible solutions it identified, Resources Safety & Health Queensland spent the following months working with industry to formulate refined recommendations that were tested with the Queensland Resources Council, representing coalmine operators and contractor companies, and the Mining and Energy Union. My office and I have worked closely with the industry, the union and the regulator throughout this time. For example, my office or I met with, spoke to or received correspondence from the Queensland Resources Council at least 19 times outside the tripartite process that was established. For those opposite to claim that there was no consultation is wrong. We will always consult and we will always engage. However, having your say does not mean getting your way.

Concerns were also raised about the 12-week temporary absence or vacancy period exception. The 12-week period provides more flexibility for industry. It will assist with unplanned absences or vacancies in statutory roles resulting from resignation, long-term illness or injury and statutory position holders taking long service leave. The member for Condamine referred to the MEU concern that if a coalmine worker was absent for one day then another coalmine worker could be employed for 12 weeks. To be clear, it is not the case that if a coalmine worker is absent for one day then another coalmine worker can be employed for a period of 12 weeks. The period of employment is limited to when an incumbent is not in the position. This is dealt with by the Acts Interpretation Act 1954.

Concerns have also been raised about the basis for the exception for a contractor company that employs 80 per cent of the workers at an entire coalmine. The opposition asked where the 80 per cent came from. Stakeholders did not reach consensus. Some wanted a lower threshold while others wanted a higher threshold. As no consensus was reached, government determined an option between those two options. Further feedback on the consultation draft bill resulted in the exception being tightened even further. This amendment has not caught industry by surprise. This would apply in limited instances where a contractor company is responsible for all aspects of the coalmining operations at a mine or is substantially responsible for operations but is not appointed the coalmine operator. It is about the entity responsible for the operation of the mine being responsible for the safety system.

Some industry stakeholders have questioned the purpose of this exception, stating that contractors would currently not meet this threshold. I am advised by the RSHQ that, according to information provided by the resources industry itself, currently there are 11 open-cut mines and one underground mine where a contracting company employs or engages over 80 per cent of the workers at the mine in a full-time service contract. For the record, these mines are Lake Vermont and Sonoma operated by Thiess; Meandu, Commodore and Broadmeadow East operated by BUMA; Broadlea, Baralaba and Kogan Creek operated by Golding; Bluff operated by MACA; Isaac Plains operated by EPSA, Byerwen operated by Macmahon; and Cook Colliery operated by Mastermyne. These stakeholders sought for the status quo to continue by allowing contractors to continue employing their own statutory position holders. However, that would be contrary to the intent of the changes made in the May 2022 bill and could see continued fragmentation of responsibility for safety.

I understand some industry representatives have suggested that not allowing contractors responsible for part mine operations to employ their own statutory position holders could create a disconnect between position holders and shift crews. With respect, that makes no sense at all. Already both operators and contractors have legal obligations to ensure the integration of their safety systems to ensure there is no conflict or disconnect. The direct employment requirements only strengthen against a potential disconnect or conflict, fortifying mine management structures by ensuring that they are unified within the one corporate structure. It will not compromise safety.

The member for Toowoomba North asked about having other contractors on site such as hospitality or cleaning crews. The 80 per cent rule applies to mine workers employed at the mine. The term 'coalmine worker' is defined in the act so there should be no doubt about what it means. Certainly I would hope that the industry would know who it employs as coalmine workers. RSHQ will monitor the implementation of the direct provisions and exceptions to those, and has the capacity to undertake that role.

The member for Callide said that the QRC wanted the exploration activities exception to be extended to mines that are in care and maintenance. While I understand that the member for Callide is a former geologist, to be clear, mines in care and maintenance such as North Goonyella, Minerva and Eagle Downs are operations that have a large footprint with associated risks. Those are not comparable to exploration activities. I would like to reflect upon the speech of the member for Callide. I extend my condolences to him as well as other workers at Anglo American's Moranbah North mine who were affected by the passing of their friend and colleague Mr Gavin Feltwell. The investigation into that matter is ongoing.

For the benefit of the member for Callide, as he is new to this place, this is not the same bill as the one introduced and passed in 2020 by the former minister, Dr Anthony Lynham. This bill seeks to make amendments to that bill, as I have already detailed extensively. The way that the member for Callide spoke yesterday was offensive and he should certainly do better in the future. The industry has had 2½ years to ready themselves for this change. We have asked them repeatedly to outline their challenges and, if they could not do that within 2½ years, I needed to act. I decided that workers and their safety could not wait any longer.

If the member for Callide wants to delay this legislation for a further 12 months, is he willing to explain to the families of someone impacted by a mine tragedy why, in his view, it was better to wait than to take action to improve safety?

The changes will benefit coalmine operators and workers by strengthening the safety and health culture in the resources sector through the facilitation of direct employment requirements for coalmine statutory positions. These amendments address the challenges to implementing the direct employment requirements raised by industry and enable coalmines to be compliant when requirements come into full effect on 25 November this year.

The amendments also maintain the objective of direct employment requirements, which is to ensure holders of statutory roles at coalmines can make effective safety complaints, raise safety issues or give help to an official in relation to safety issues without fear of reprisal or impact on their employment. The requirements also ensure the coalmine operator, the entity ultimately responsible for the coalmine and safety of its workers, remains the central point of responsibility. By directly employing critical safety roles, the coalmine operator's responsibility for safety is not fragmented across multiple employers. The Palaszczuk government is committed to achieving a strong resources sector, and this depends on making sure workplaces are safe. This bill will ensure that responsibility for safety is not fragmented and that holders of statutory positions feel safe to raise safety issues. This will protect the safety of our workers.

As noted yesterday by many members in their contributions to the debate, the bill contains amendments to the Mineral Resources Act 1989 which will allow the minister to defer first-year rent for mining leases for minerals prescribed in the Mineral Resources Regulation 2013 and in circumstances

where the proponent can prove that funds saved from the deferral will be utilised toward startup costs of the project. I enjoyed hearing contributions of members about the benefits this rental deferral will provide for regional communities and about good jobs for Queenslanders.

I would like to clarify a point raised by the member for Condamine in relation to AMEC's submission on the bill about inclusion of phosphate as a critical mineral for the purpose of this rent deferral. I am very appreciative of AMEC's engagement on this bill and its representations on behalf of its member companies. However, phosphate is not considered a critical mineral and will not be prescribed in the Mineral Resources Regulation 2013 for the purposes of rent deferral. However, I do recognise that it is an important part of the agriculture industry.

I would also like to clarify the contribution of the member for Maiwar yesterday when he referred to the rent deferral of first-year mineral projects as a hand-out. This proposal is not a hand-out; it is a hand up. We support the growth of our critical minerals sector and encourage small to medium operators to pursue projects in Queensland. Further, this rent deferral will need to be repaid from the fourth year of the mine's life. Once again for member for Maiwar, this measure is not a hand-out but will result in greater investment in the Queensland critical minerals sector. Let me be clear: we cannot have a renewables sector without having a strong resources sector.

I thank all members for their contributions to the debate. I would like to commend the work of Resources Safety & Health Queensland. I also thank all stakeholders for their contributions to the development of the bill. I commend the bill to the House.