# DRAFT SECOND READING SPEECH

## HON. GUY BARNETT MP

### *Mineral Resources Development Amendment Bill 2017*

**check Hansard for delivery**

Madam Speaker,

I move that the Bill now be read a second time.

This Bill provides for a number of changes to the Mineral Resources Development Act 1995, an Act that encourages the development of the State's mineral resources consistent with sound economic, environmental and land use management.

The Government is committed to supporting the mining industry in this State and this amendment Bill will provide some important changes to the Mineral Resources Development Act that will reduce red tape and maintain Tasmania as one of the preferred mining investment destinations in Australia, and indeed the world.

The Mineral Resources Development Amendment Bill is also being introduced by the Government as a part of our commitment to continually improve the regulatory setting in Tasmania.

Madam Speaker, the major provisions to be added to the Act with this amendment Bill include the requirement for mineral tenement holders to provide a final report at the end of the life of the tenement, and for the proof of public liability insurance to be provided prior to the grant of a tenement. Further provisions are being created to allow for compensation under the Act to be available to the holders of a forestry right, and for the Minister to have the authority to vary a security deposit.

There are a number of instances in the Act that require clarification of the intent of the clauses due to the use of outdated language or phrases, many of which are clauses replicated from the Mining Act of 1929, and some simply due to typographical errors not previously recognised. The Mineral Resources Development Act has now been in force for more than 20 years, it is unsurprising that the interpretation of language is in need of refreshment. This Bill aims to provide such refreshment.

Madam Speaker, an exemption from the requirement to hold a mining lease for the extraction of gravel for the construction and maintenance of forest roads, by Forestry Tasmania on State Forest (now known as Permanent Timber Production Zone Land) conducted in accordance with the Forest Practices Code, has been a long standing provision in the Act. Since the removal of large areas from timber production zones in 2013, a number of critical forest quarries are no longer located on Permanent Timber Production Zone Land and are therefore no longer exempt from the requirement for a mining lease. These quarries supply material for the construction and maintenance of forest roads for access to forestry operations, for firefighting and for use by the general

public. A provision in this Bill aims to correct that balance and provide an exemption for forest quarries on Future Potential Production Forest Lands when used in the construction and maintenance of forest roads required to access Permanent Timber Production Zone Lands. This is an important exemption to facilitate effective and efficient management of our production forests, and is critical in reducing red tape and the duplication of regulation.

Madam Speaker, the Bill provides important amendments that relate to the clarification of the words used for the appointment of the Director of Mines, and additionally to the appointment of the Registrar and Inspectors under the Act. Whilst there are no fundamental changes proposed to the manner of this appointment, the nature of the relationship between this appointment and that of the position under the State Service Act required this clarifying amendment.

There are a number of different types of mineral tenements available for application under the Mineral Resources Development Act, and each of those tenements requires an application to the Minister, and a decision to be made to either grant or refuse that application. One important component of all applications is that the applicant must be able to demonstrate currency in their public liability insurance holdings. This Bill will clarify that this important insurance must be proven to be valid before the Minister may grant an application for a tenement, and that the applicant does not need to hold that insurance at the initial application stage. This will remove the current financial disincentive to applicants, especially those smaller firms and individuals to whom cash flow is critical, where they are required to provide proof of this cover at the application stage which may be many months prior to granting and may mean insurance cover being held for no good reason.

Madam Speaker, up to date and accurate data and information are critical components in Tasmania's ability to maintain our share of mining investment. The provision of pre-competitive geoscientific data is a hot topic in the mining and exploration world today. Tasmania is perceived by industry to be in the top five of the leading jurisdictions, according to the Fraser Institute Mining Survey 2016, for the quality of our geoscience databases. The amendment regarding the provision of final reports is one small step we can take that will help Tasmania to maintain this competitive advantage in the global mining marketplace by ensuring that all geological data and information generated by a mineral tenement holder is provided to Mineral Resources Tasmania at the end of the life of that tenement, thereby making the information available for future geological studies or investigations.

One minor amendment that this Bill provides is the removal of the impost on tenement holders (exploration licences, special exploration licences and retention licences) to provide a quarterly report as a matter of course. This requirement to provide details of expenditure and activity every quarter is onerous and outdated in the modern world of mineral exploration. This amendment will allow for the Director to request such reporting as deemed necessary, and, in most cases, annually, and will bring Tasmania into

line with other jurisdictions. The amendment will reduce the regulatory burden on the licensee and also the administrative burden on Mineral Resources Tasmania staff.

Madam Speaker, the Government has made clear that we are completely opposed to the practice of groups undertaking frivolous or vexatious appeals against mining development. It is the Government's view that some groups use the Courts to deliberately delay job-creating developments. One of the key amendments provided in this Bill is the removal of the current requirement for an applicant for a mining lease to provide sufficient information relating to the environment prior to the Minister being able to grant that application. This requirement is an example of duplication and excessive red tape. Mineral Resources Tasmania, and in turn the Department of State Growth, do not regulate environmental aspects of mining and have no need to duplicate the legislated role of other agencies in so far as it relates to the operation of a mining lease. The mining lease provides the lessee with exclusive rights to the mineral or category of minerals listed on the lease document, it does not provide any permission for the disturbance of the environment.

The regulation of major mining operations as it relates to the environment is the responsibility of the Environmental Protection Authority, and smaller operations are the responsibility of the local planning authority. The applicant is required to provide these agencies with the details of potential environmental impacts from the proposed operation, so that these potential impacts can be assessed, and regulatory controls put in place by the appropriate regulator. Besides streamlining process and reducing red tape for those applying for mining leases, this amendment reduces the number of grounds on which appeals can be made, without detriment to the regulation and protection of the environment.

Madam Speaker, in addition to the proposed amendments, the Government will adopt a significant new policy position to make a Statement of Reasons readily available for the grant of a mining lease under the Act, where the decision to grant relates to significant or particularly sensitive mining projects.

The provision of a statement of reasons will be proactive and support the government's commitment to the principles of good governance, including transparency in decision making, open data and accountability.

This policy position will also help reduce the load on the court system from repeated appeals under the Judicial Review Act by parties seeking details on decisions made under the Act.

Madam Speaker, further amendments will be provided for in the Bill that include providing the Minister with the authority to vary the minerals or category of minerals to which a mining lease relates. This is an important provision that will allow for more effective mining of our State's valuable mineral resources. There have been at least two instances in recent times where the holder of a mining lease has been prevented from selling materials as the required mineral category was not provided for in the lease document. This has impacted their ability to sell that product despite there being a

market for it, with the result that the material may end up on the waste dumps and mullock heaps of history and be lost to the people of Tasmania. With the provision of applicable information, and after discussions with the Director of Mines, the Minister will be able to more effectively and efficiently vary the lease document to allow the lessee to take advantage of those identified market opportunities for the benefit of all. There are no losers in this initiative, as no other mineral tenement can co-exist with a mining lease, as that lease gives the lessee exclusive access (in relation to the minerals) to the area of land it covers.

The Mineral Resources Regulations lays out the methodologies and rates for the determination of a royalty rebate. These rebates are made available to attract more downstream processing and significant investment in the State for the production of metals from ores mined. A further amendment in this Bill will clarify that those regulations can prescribe the method or the rate of the rebate that can be applied for.

In another red tape reduction initiative, this Bill will provide the authority for the Director of Mines to issue prospecting licences for a period of up to a five years. Currently there is a one year maximum period for prospecting licences, and this has proved to be a significant impost both on the administering of licences and on the regular holders of prospecting licences. The five year maximum will bring Tasmania in line with some other jurisdictions, where there are provisions for longer term licences, for this popular recreational pursuit.

Madam Speaker the Mineral Resources Development Act provides for compensation to be paid to persons with an interest or estate in land (that being someone with a proprietary interest in the land; such as a land owner or holder of a lease over that land) for damage to that land or to improvements on that land as a direct result of mineral exploration and development activities under a mineral tenement. The Act provides for compensation for the loss of use of land, for damage to infrastructure and crops among many other things. One thing that is not covered under these existing provisions is the requirement for the licensee or lessee to provide compensation to those with assets within the area of the land, but whom by definition do not have an interest or estate in that land. One such group that has been identified are those who hold a forestry right (under the Forestry Rights Registration Act). This Bill will provide a fix for this inconsistency and allow those who hold a forestry right to be entitled to compensation for damage to the trees to which that right pertains. The provision for compensation will allow for payments to be agreed on, or determined by the Mining Tribunal as required, to compensate the rights holder for the loss of their timber assets, as a direct result of the activities of an explorer or miner. This amendment will provide certainty and protection to the holders of forestry rights over many of the plantations on private and crown land in Tasmania, and will reflect the way in which the minerals industry interacts with other land users.

Madam Speaker, the Act also requires the holder of a mining lease on private land to have in place a current compensation agreement to allow them to continue to undertake mining operations on that lease. However the language in the Act left an element of

uncertaintly relating to the validity of that agreement if the land was sold to a new owner. This has not become an issue in the past. The common expectation is that such an agreement should stand so as to allow an operation to continue on a valid mining lease despite land sales occurring that are beyond the lessees control or even knowledge. Madam Speaker, now was an opportune time to ensure this will not become an issue for the future. This amendment will provide certainty for the operators of mining leases on private land and remove any perception of sovereign risk to which they may be exposed due to circumstances beyond their control.

Madam Speaker, the security deposit system administered under the Act is an important and critical part of the administration of titles. Prior to an applicant being granted a mineral tenement, they must first supply a security deposit the value of which has been determined by Mineral Resources Tasmania on the basis of area, proposed activity and potential costs of rehabilitation. Increases in security deposits are often required prior to approvals to undertake on-ground works within a licence or lease. The increased amounts are commensurate with the increased potential costs of rehabilitation of the proposed activity. The purpose of the security deposit is two-fold. Firstly it is an insurance policy for the State to be protected from having to fund the rehabilitation of mineral exploration and development activities, and secondly it is a tool by which the mineral explorer or developer is encouraged to undertake progressive rehabilitation over the life of a lease or licence. The amendment proposed in this Bill will clarify the Minister's ability to vary that security deposit up or down, on the basis of the actual level of liability deemed to be existing as a result of those operations. The clear authority to return the security deposit in part, as the rehabilitation obligations are diminished is currently not clearly stated in the Act yet it is a standard methodology used in encouraging progressive rehabilitation across other jurisdictions.

Madam Speaker, as already mentioned the provision for requiring final reports has been included in this Bill. As a result of this new terminology being included in the Act, it was deemed preferable to also change the nomenclature used to better reflect the requirements for all reporting under the Act. As such, the Bill will vary the Act to change the name of the guidelines that stipulate the requirements for reports, from the Annual Report Guidelines, to Reporting Guidelines. This change will be reflected throughout the Act in all relevant sections, and the guidelines will be issued that will be relevant to all mineral tenement holders in detailing all of their reporting obligations.

The Government is committed to supporting the mining industry. One of the ways this can be demonstrated is by removing red tape, and allowing the companies and individuals to get on with what they do best; discovering and developing our mineral resources. The changes to the Act that this Bill provides will go a long way to assisting industry in developing our mineral resources, as well as strengthening our regulatory regime and ensuring development is consistent with sound economic, environmental and land use management objectives.

I commend the Bill to the House.