

MINING AMENDMENT REGULATIONS (NO. 2) 2017 — DISALLOWANCE

Motion

Resumed from 10 October on the following motion moved by Hon Jacqui Boydell —

That the Mining Amendment Regulations (No. 2) 2017 published in the *Government Gazette* on 29 September 2017 and tabled in the Legislative Council on 10 October 2017 under the Mining Act 1978, be and are hereby disallowed.

HON COLIN TINCKNELL (South West) [3.44 pm]: Last night I did not quite finish talking about the effect that the proposed goldmining tax would have on local communities. I will get back to that in a minute.

Right now I want to talk about what the mining tax will mean to Western Australia in general. First, it will cost jobs. I know that this has been a debatable point but I will talk members through it. The new tax is certain to cost an estimated 3 000 jobs directly from the goldmining industry, and 27 mines will be affected. I can list all the mines but that would be boring. Five mines in Western Australia are currently operating on a margin of less than 10 per cent, threatening 2 855 jobs. If the price of gold drops to \$1 400 an ounce, another five mines now operating under the 10 per cent margin would threaten another 2 395 jobs. Over 5 000 jobs could be affected. As we have said many times in this house, and as we have seen through the many media exposures of these regulations, some of these effects would happen immediately and some would happen over the next one to two years.

Hon Darren West interjected.

Hon Peter Collier: Just ignore him.

The DEPUTY PRESIDENT: Order! We are not ignoring anyone. We are paying attention to Hon Colin Tincknell; I am and Hansard is, and we need to hear what he has to say. Do not worry; I will give the call to members who have indicated they want it in due course.

Hon COLIN TINCKNELL: WA produces less gold now than it did in 1999. This 50 per cent increase will shorten a mine's life due to it reaching a point of unprofitability that much sooner. This will stifle exploration and future investment, with thousands more jobs on the line. It will have a knock-on effect. We have discussed the unfair nature of the GST distribution. The royalty increase will see 60 per cent of this revenue generated going to other states. It is a short-term cash grab for the government. These sorts of things do not work. They are a waste of time. The tax will have long-term impacts on the WA and national economy, discouraging job growth and creation in the nation's most productive state, which will not be good for the rest of Australia. When WA is struggling, the rest of Australia struggles. If we base it just on the GST, we can see that. A total of \$4.4 billion is pumped into the economy through wages and salaries, business purchases and community contributions. A total of 125 community organisations are financially supported by this sector. That is just part of the knock-on effect.

Let us look at the knock-on effect in Perth. If miners in the regional areas lose their jobs, many of them will be heading for the city and larger regional centres in an effort to find jobs. As we know, many of those miners are fly in, fly out. They fly out of the city but if this tax is introduced, they will be coming back to the city to work, not just live here. Those living and working in country towns will not be the only ones impacted; a substantial number of the mining industry workforce are FIFO workers from Perth. Workers are high in numbers in places such as Butler, Wanneroo, Hillarys, Burns Beach, Joondalup, Carine, Scarborough, Swan Hills, Baldivis, Perth, Victoria Park, Warnbro, Maylands, Kalamunda, Mandurah, Belmont, Armadale, Dawesville, Midland and Darling Range. Many of these areas are Labor-held seats. I notice that the Construction, Forestry, Mining and Energy Union has been surprisingly quiet on this issue of job losses, a topic that it is usually quite vocal about.

Over 3 500 WA businesses supply goods and services to the gold industry. Seventy per cent of these businesses are in the metropolitan area. We are not just talking about jobs lost in regional areas, we are talking about major job losses and a major loss of income to small businesses in the metro area.

I turn to broken promises. Labor went to the election on a platform of job creation. This gold royalty increase will do exactly the opposite. Labor did not propose the implementation of this royalty hike before the election, thus it has zero mandate for it. It says it has a mandate to get the budget back into balance, but that is hard to believe after it has increased spending, and the deficit, with expensive promises it should not have made and should have revised in the wake of the changed economic circumstances. Labor promised not to increase taxes before the election, yet now we see it doing just that. Labor would have us believe that the gold industry can easily take this hit, but the reality is that although some goldmining companies could take this hit and continue operating profitably, many of the smaller mines will be greatly affected by this. Exploration will be dramatically hindered. If exploration decreases, the potential to discover and then profit from new mines will be greatly reduced. In 2015 the previous government chose not to increase gold royalties, understanding it would have had a negative impact on the WA economy; at the time the current Premier agreed with it.

I turn to the subject of obtaining a loan from the commonwealth. The state government should be asking the federal government to negotiate a part of the \$11 billion loan on its behalf. The loan granted to the federal government should then be lent to Western Australia. The interest rate on this loan would be lower than the rate Western Australia currently pays. The federal government should then be covering the interest payments for the loan as a partial compensation for the money siphoned from WA by commonwealth horizontal fiscal equalisation. On top of this, the federal government could underwrite a guarantee on the remainder of Western Australia's existing loans, as it does for other states including New South Wales and Queensland. This would see a significantly lower interest rate applied to Western Australian debt, resulting in substantially lower interest payments and a healthier budget. We understand that this is not normally done by the commonwealth, but we have never before had a situation of a state receiving only 34 cents in the dollar from the goods and services tax redistribution.

It is becoming quite clear that this government is in a real pickle. The economic circumstances it inherited were shocking, yes, but this government is not looking to fix its problems in the right way. I understand that this is the Treasurer's first budget, and going after a seemingly profitable industry like the goldmining industry seems like a good idea on the surface. But by this government's own admissions, not several months ago but as far back as 2015, the Labor Party also thought and knew that this was a job-killing, economy-wrecking and bad idea. Nothing has changed since then with regard to it being a bad idea. It was a bad idea then and it is a bad idea now.

Several members interjected.

The DEPUTY PRESIDENT: Order! I am keen to hear what Hon Colin Tincknell has to say.

Hon COLIN TINCKNELL: I will mention again the communities that will be affected. One example is the Martu people. The workforce comes from 13 communities, including Punmu, Parngurr, Warralong, Gooda Binya, Irrungadji, Parnpajinya, Jigalong, Kiwirrkurra, Looma, Wangkatjunka, Bidyadanga, Kunawaritji and One Mile and Two Mile in South Hedland. Their children, their brothers, their sisters, their uncles, their aunties et cetera all work at Telfer. They will lose their jobs. Over the last 15 years an average of 80 to 120 Martu people have worked on that site. The elders of those communities, as mentioned by Hon Simon O'Brien previously, signed an Indigenous land use agreement. The elders come from those communities. Those communities are reliant on that mine staying open. That mine has made it quite clear that if this goldmining tax came in, it would fall over and 1 550 jobs would be lost from just that mine. It is also looking at opening another mine in Jundee, and those 300 jobs would be lost. These jobs will be lost from many places.

If this government were serious about balancing the budget, it would realise that if revenue is down, spending must come down, and not to try to fix it by just increasing revenue. If the government is forced to break election promises, they should be in areas of spending not in the area of raising taxes, fees and charges.

This is why the disallowance motion should go through. This is why, hopefully, this side of the chamber will vote for the disallowance motion. No good can come from this tax. This Parliament makes informed decisions, and that is why we have taken our time and have come to the outright conclusion that this is a bad tax.

The DEPUTY PRESIDENT: Is Hon Darren West seeking the call?

Hon Darren West: Not yet.

The DEPUTY PRESIDENT: Hon Michael Mischin has the call.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.56 pm]: I rise to make some comments on the disallowance motion presently before the house, and explain my reasons for supporting it. The decision to do so has not been easy, but I wish to raise a number of matters that have shaped my thinking on the subject and why I have come to the conclusion that it is the right thing to do in the circumstances.

One matter concerns the merits of what is proposed by the regulation before the house; a regulation that has been gazetted and now gives us an opportunity to scrutinise and debate it. I will not dwell on the merits of the proposal to increase the royalty rate. Others have commented on that and have summarised those issues as well as, or perhaps better than, I could, although I will have something to say about the form of the regulation and the material that allows us to make a decision on the merits of this particular proposal. In short, in that regard government has not put up a case to increase the royalty rate, or indeed to explain the manner in which it is being done. It has not presented a case that it is either sound or desirable, that it will result in any significant benefit to the state and its people, or that it will not have unforeseen and unintended consequences that are detrimental to the state's interests. That, I suppose, is part of the problem with the process that we are faced with, and that leads on to the second element and the question of whether, even if the merits of this particular proposal were unsound, it would be proper, having regard to the function of this house and its responsibilities, that this house oppose the regulation to the point of disallowing it.

That comes back to the question of whether it is a measure to do with the budget or a money bill or whatever the case may be. I understand there has been some loose talk suggesting that it would be improper to stand in the way of what is being proposed and contrary to convention and contrary to the manner in which this house deals with matters of this nature. I want to develop the proposition that it is not only proper, but also warranted in this case. I want to do so because of that loose talk suggesting that this is somehow a budget or money measure or an appropriation of money or the like, and so it is contrary to the conventions and practices and traditions of this place.

I would suggest that they are not in the circumstances of this case. First, I accept entirely that the government of the day is formed in the Legislative Assembly and that bills for appropriating money or revenue or imposing taxation must originate in the Assembly, and, by convention, there are limits on the actions that the Council can take as a house of review with respect to those pieces of legislation. However, this is of an entirely different character. In the first place, this is not a bill and it has not originated in the Assembly. It is subordinate legislation prepared by the executive. It has been tabled in this place after having been gazetted. It has not, as far as I am aware, made any appearance in the Assembly. There has been no ability of that chamber to even consider the matter, let alone scrutinise and debate it, or do what passes for debate in the Assembly nowadays. In the Assembly we have seen bills advertised in advance by the government that has said that they have to be urgently passed. Expectations have been raised that the opposition will support those bills because they are worthy measures, and then we have seen the subsequent introduction of those bills after the government has failed to get a commitment to support it because no-one has actually seen the things yet, let alone had an opportunity to consider them. Declarations have been made that those bills are urgent with the government filibustering over its own bills, and then, when they finally make their way here, they sit on the notice paper for weeks on end before they are raised as an order of the day. It is a fact that the government has an overwhelming majority in the other place, but that does not make for proper scrutiny of the legislation that the government proposes.

We have seen a similar attitude to legislation coming to this place. There is an expectation on the part of the government that it will be supported simply on the basis of a majority in the Assembly, but without any proper scrutiny or any attempt to engage and to explain the policy behind it, let alone provide the case to support that legislation. On several occasions over the last several months, we have seen ministers incapable of answering questions on the bills that they are sponsoring, promoting or managing. We have had prevarication and non-answers on the part of the ministers here and ministers representing ministers in the other place, and a high-handed attitude to the function and responsibilities of this house and its members. We are dealing in this case with a regulation that, as I mentioned, has been promulgated by the executive. Regulations are necessary and convenient for the efficient governing of the state, but it comes at the expense of parliamentary scrutiny. Sure enough, there is a Joint Standing Committee on Delegated Legislation that will ultimately look at this particular regulation, and no doubt a pro forma disallowance motion will be lodged in respect of it. However, that will consider only the regulation in time and whether there is a head of power to support it. On this occasion, Parliament has had, and will have, to consider this regulation in a different fashion. It has been done by the presentation of a motion in order to disallow it and to deal with the merits of the policy that purport to underline it, but otherwise without the assistance of the government to establish a case in order that this house and its members can properly turn their minds to it. Despite all the publicity about how there had to be a royalty increase and how much it was going to be, the first chance anyone had of seeing what it was that the government proposed was when it was gazetted on 28 September.

Hon Alannah MacTiernan: It was announced in the budget.

Hon MICHAEL MISCHIN: I am sorry. Is Hon Alannah MacTiernan saying that the regulation was reproduced in the budget?

Hon Alannah MacTiernan: The substance of the matter, and there is nothing particularly complicated about this issue.

Hon MICHAEL MISCHIN: It was the substance of the matter.

Hon Alannah MacTiernan interjected.

The DEPUTY PRESIDENT: Order! Hon Michael Mischin has the call.

Hon MICHAEL MISCHIN: That has precisely indicated the problem, Mr Deputy President.

Hon Alannah MacTiernan interjected.

Hon MICHAEL MISCHIN: I take it that Hon Alannah MacTiernan has descended to mockery now. I am prepared to accept an apology.

Hon Nick Goiran: You should go to the radio.

Hon MICHAEL MISCHIN: Yes, perhaps I will go to the radio.

Hon Alannah MacTiernan interjected.

Hon MICHAEL MISCHIN: Has the minister got anything else to say?

The DEPUTY PRESIDENT: Order!

Hon Darren West interjected.

The DEPUTY PRESIDENT: Order! Interjecting on the member on his feet is highly disorderly, and interjecting on the Chair is off the dial. Hon Michael Mischin is addressing the question that the motion be agreed to.

Hon MICHAEL MISCHIN: Thank you, Mr Deputy President. The point is that whatever may have been said about it in the budget as a proposal, what we are faced with today is a rather different regulation. It surely increases the royalty rate, as was foreshadowed; however, there are some other elements in it, including the manner by which it is to be calculated. We have had no indication up until now why it will be done that way or how it is meant to operate. It may very well be that Hon Alannah MacTiernan, through her exposure in cabinet and the Labor Party caucus was informed of all of this, but certainly the Parliament and the members in this place have not been informed. Mock as she may, the fact is that there may have been a particular election result that has resulted in a greater majority in the other place, and an increase of membership from her party here, but there are also quite a number of members of this house and the other one who were elected by their constituencies. In due course, members of our party and other parties may very well be elected. For this McGowan government of high standards to treat them with contempt and to assume that they can simply rubberstamp any proposal they come up with without consideration and debate, without engaging with these parties and representatives, is simply arrogant and demonstrates and enormous self-regard and hubris and will be its downfall. This is it the only opportunity we have had to find out what this regulation does beyond simply raising the royalty rate. Is it a tax? No, it is not. This is a royalty rate that sets a price for the commodity that is owned by the state and that the state will charge for. It is not a taxation measure, it is not a money-raising measure in that sense, and it is not the subject of any legislation that has been the subject of scrutiny by the Assembly or by this place before yesterday. We have been criticised for our delay in indicating our position on the matter, and I make the point that it was gazetted only on 28 September. That was when we saw what the government was proposing to do in detail rather than simply foreshadowing it in the budget, in speeches, in headlines and in comments in answer to criticism of the proposal. In addition, until it was tabled and put before this Parliament there was no need to state a position on the merits of what was precisely proposed and intended. The government seems to take the view that if it announces something in a headline or a media release, the Parliament ought to commit itself to it without seeing the detail, and that, of course, is fundamentally wrong. We have seen that happen with another bill in the Assembly just yesterday and today when it was declared urgent and there was an expectation that everyone would commit to it, like they no doubt do in caucus and raise their right fist and say, “Yes, of course we will, comrade.” But parliamentary members like to know what the bill actually is and, likewise, what the regulation actually is.

Hon Sue Ellery: What bill?

Hon MICHAEL MISCHIN: Yes, it has been leaked to me!

There certainly has been no ability to debate it. I do not know how the government has engaged with the crossbench. Up until now, it seems to have treated crossbenchers with a fair bit of contempt. I do not know how much the government has engaged with the Greens, which it seems to regard as an offshoot of its own party. I do not know how much the government has engaged with the Nationals. But certainly no approach has been made to the Liberal Party to explain what was intended, let alone to try to provide evidence to support the merits of the argument that the government wanted to put forward; instead, there were simply threats that we should, of course, support it. No attempt has been made at all to show respect to our constituencies and to those members of the public who voted us into office by trying to explain to us where the mining industry’s case may be wrong, what the consequences of this measure might be, why it is essential that it is passed and what analysis has taken place to ensure that it will achieve what it is intended to achieve and not be counterproductive or give rise to unfortunate consequences to the detriment of the people of this state—not the slightest attempt! I suspect part of that is due to the attitudes of the Premier and the Treasurer, but, frankly, part of it is due to the attitude of the Leader of the House. I know that she has made comments about me on other occasions, but it is enormously inept management of this place to know in advance that this is going to be an issue of debate, yet not attempt to persuade members on the other side as to the merits of this matter.

Hon Sue Ellery: You’re bizarre!

Hon MICHAEL MISCHIN: No briefing has been offered —

Hon Sue Ellery: Did you want one?

Hon MICHAEL MISCHIN: You are the Leader of the House!

Hon Sue Ellery: What normally happens is that you would request one.

Several members interjected.

Hon MICHAEL MISCHIN: I am pleased for that interjection, honourable Deputy President.

The DEPUTY PRESIDENT: Order! I am determined to get members through to 4.15 pm without World War III breaking out. Hon Michael Mischin is going to address me about the motion being agreed to.

Hon MICHAEL MISCHIN: I appreciate the honourable Leader of the House mentioning that somehow it is our responsibility to assist the government's case and not for it to take responsibility, because —

Hon Sue Ellery: Do you want one now?

Hon MICHAEL MISCHIN: I am sorry; there is an echo in here.

Hon Sue Ellery: No, it's not; it's me.

Hon MICHAEL MISCHIN: Well, be quiet then, please.

Several members interjected.

The DEPUTY PRESIDENT: Order! I ask all members to listen to Hon Michael Mischin.

Hon MICHAEL MISCHIN: It is typical of the government's attitude that blame is constantly being cast about; everything is someone else's fault. Members opposite have been in government for six months and they still cannot take responsibility for their own budget. Suddenly it is everyone else's responsibility to make sure that the budget works. It is everyone else's responsibility to solve the government's problems.

Several members interjected.

The DEPUTY PRESIDENT: Order! Everyone will get their chance after Hon Michael Mischin.

Hon MICHAEL MISCHIN: In any event, there has been no attempt as far as I know to engage with any of the elected representatives—I do not know whether the Nationals were given the grace of being told what this measure means—to try to persuade this house that this measure as it has been gazetted is one that is proper, sound and will operate as intended to the benefit of the people of Western Australia. Particularly in light of the comments made by the government, the Premier and the Minister for Mines and Petroleum in the past and very, very recently, one would have thought that if one was going into an election—but even after the election—and make comments that they would not introduce a rise in royalties on gold and then change their minds about it, they would try to persuade and present a case for it.

Hon Sue Ellery interjected.

The DEPUTY PRESIDENT: Order!

Debate interrupted, pursuant to standing orders.

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Sitting suspended from 4.15 to 4.30 pm