

NICKEL (AGNEW) AGREEMENT AMENDMENT BILL 2023

Second Reading

Resumed from 22 February.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [12.28 pm]: We are flying through the bills today—excellent work!

The Nickel (Agnew) Agreement Amendment Bill 2023 is a very short bill apart from the actual state agreement itself, so it is my intent to not take a huge amount of time on this. I will give the minister some questions that he might be able to answer in his reply speech, and, unless other members have a burning interest in the production of nickel sulphate, we can probably avoid the need to go into the committee stage on the bill. I will say at the outset that I understand that this bill is supported by the manager of BHP Nickel West. There has obviously been a fair bit of consultation between the government and the people running the bill, and I think there is a great degree of support for what is being proposed.

Obviously, nickel is an important commodity that comes out of Western Australia. I think the minister said in his second reading speech that it was worth something like \$3.5 billion. That pales in comparison with iron ore, but it is a significant contributor nonetheless. It becomes particularly important when we start to talk about Western Australia as a key area for critical minerals for future development, particularly around energy, and nickel certainly will be. It will be a significant component for the world's transition into renewable energies, particularly in the construction of batteries. Western Australia likes to think of itself as a critical mineral hub, and that is both true and critically important for the future of Western Australia, not that I think the iron ore industry will decline rapidly, but it is likely to stabilise as it gets closer to exports of one billion tonnes a year. It is difficult to imagine that expanding significantly further from where it is. I think other industries will gradually start to come up and underpin that development. Obviously, lithium is one of those—that is a plug for my area in the south west—and nickel is also a critically important component of that growth.

There is agreement in the chamber that the industry is important and the bill before the house will assist industry, and for that reason the opposition will support the bill. It stems from a nickel mine in Leinster and in recent years has resulted in a processing plant in Kwinana as this industry expands. Western Australia is not only mining nickel, but has got to the point of also processing it, which is one of those success stories that we all like to see. That is fantastic. In the same way as lithium is now mined and is in the process of being processed—that is a clumsy way to say it—we are developing lithium processing facilities. We have one that operates to some degree and one that is being constructed. It is a critically important resource and it is important that the state is able to expand its production of it.

The minister is lucky that one of our “dearly departed” friends Hon Robin Chapple is not here anymore because I imagine that we would have quite a long debate about the value of state agreement acts and state agreements in general. We will probably finish this bill much more rapidly because my good friend Hon Robin Chapple has retired to greener pastures. Presumably it is still green in the Kimberley. I know it has been pretty damp up there.

Hon Stephen Dawson: It is still very green.

Hon Dr STEVE THOMAS: Yes. As we have done in numerous debates in the house, many of them initiated by Hon Robin Chapple, the opposition supports state agreements as an important part in the development of industries going forward because they provide the long-term certainty that many of these projects with massive investment require. They take a long time to get a return on that investment and they need that certainty.

Last year we converted a state agreement act. Effectively we repealed one so that the operation would come under the Mining Act 1978. I note that in the bill before the house, many of the changes in the state agreement act are to take the operations to a position that I suspect they would look like if they were managed under the Mining Act. I do not have a moral objection to that. I am sure Hon Robin Chapple would have suggested that made the state agreements unnecessary. The minister might be able to give a quick overview in his second reading reply as to how much of the change is effectively applying the Mining Act to an existing state agreement. I suspect we will find that is the vast majority of what is proposed in this bill.

As a bit of background, the owner of the BHP Nickel West plant at Leinster has to do a number of things. It is trying to bring in nickel from outside the original state agreement act area and that simply, and rather obviously, makes sense. It is difficult to understand how an original state agreement act might prevent that from happening, but it is just one of those things that occurs. We try to make an original state agreement act quite prescriptive and perhaps at the time nobody thought that we might want to extend the life of a project by sourcing from outside that.

Hon Stephen Dawson: I guess the world has moved on considerably since 1974.

Hon Dr STEVE THOMAS: Do you mean that the flares have gone, minister?

Hon Stephen Dawson: A lot has changed.

Hon Dr STEVE THOMAS: Okay—the minister still has his flares but many other things have changed. Excellent!

Hon Stephen Dawson: Actually, I wasn't alive in 1974.

Hon Dr STEVE THOMAS: You were not alive in 1974? All right—another day when I feel old in the house, Deputy President!

Hon Martin Pritchard: You're not as old as some.

Hon Dr STEVE THOMAS: I am not the oldest member here, so it is okay. We digress.

Many of the things that are introduced in this bill probably bring the state agreement act back into line with the Mining Act. For example, the changes include the requirement to develop a community development plan and a local participation plan. It also requires BHP Nickel West to oblige subcontractors to apply with the terms in the local participation plan. There is obviously an intent to get local activity happening. That is fine; it is a good thing. Obviously, as with many other areas, when you cannot procure locally, you procure from further afield, and that is a reasonable thing, particularly for regional areas. It is interesting to note how hard people have had to fight sometimes to get local procurement involved in government contracts. The one I probably had the closest look at was the Bunbury Outer Ring Road, which is theoretically a \$1.25 billion project, but they are going to knock a few bits off it, so it is really probably a \$1.5 billion project. Getting local procurement into that project was a massive battle for the local proponents, the people pushing for that project to develop. It is a reasonable outcome that the government would seek to get local employment, as long as it does not interfere with the operation and the running of the unit. If that is the case, that is a good outcome.

Obviously, this bill will add the need for an agreed mine closure plan. I wonder why that was not in the original state agreement act, but as the minister says, 1974 is a long time ago. Big holes in the ground through outback Western Australia were probably considered relatively normal at the time. That is also important.

I will ask the minister to address in his second reading reply a few of the simple questions around this bill. There are changes in the bill on the agreement act to increase the lease rentals and change the royalties. As I understand it, the lease rentals and the royalty rate will shift from a state agreement act set rate to effectively what it is under the Mining Act. Could the minister respond on what the financial impact of that will be? What was the original rate set at? What did it raise versus what the changes proposed in the bill before the house will deliver? That would be an interesting component because I have not seen the numbers on that. It would make sense that there was a standardised royalty rate. I understand that for some other developing mineral assets, the government wants to be careful about applying the standardised rate if it might interfere with the production of that product, which is essential; for example, phosphates and other things that are required for agriculture and critical areas. In this case, I thought that nickel could absorb a standardised rate, but I would like to know exactly what those numbers are, if the minister could please provide them.

This legislation will require Nickel West to pay the levy to the mining rehabilitation fund, which, again, is a fairly normal thing under the Mining Act. I ask the minister to give us a bit of a summary of what levy revenues he expects will be raised. I am presuming that Nickel West was exempt from them under the original state agreement act, so it will be from zero to a certain amount. I am also to some degree interested in how far we see that resource extending. What will it look like when we potentially get to the end of the mine—heaven forbid—and then rehabilitation has to occur? What sort of costs and levy raising will we need? I do not know whether the minister has estimates; if necessary, it may be that he takes that on notice. This bill originated in this house, so it will go to the other place. When it gets to the other place, the minister may have some slightly more detailed answers to these questions; to be honest, I will be quite comfortable if that is where we land in this discussion.

I have a couple of other points. Those are the key questions I am interested in getting answers to. Probably the first most critical, important part of this bill is that it will allow BHP Nickel West to sublease parts of the Leinster township without government approval. I think that is a reasonable outcome, but the minister may have a sentence or two on the extent to which that is envisaged to occur and the key purpose for that, which I presume is the provision of housing and potentially commercial services of some sort. Perhaps the minister can give us the outcome of that in his reply.

The other change that we are proposing that I particularly want to comment on is the capacity to incorporate other nearby mining tenements into the state agreement lease area and the ability to bring in third party-owned nickel ores. I think this is the most interesting and critical part of this bill. It is a bit like the gas production that occurs up in the Burrup, let us say, in the minister's patch, where a processing unit may be struggling to find third-party supply that might keep those processing units going for longer and in a more efficient manner. It just makes sense. If there is an extraction or refinement processing unit in place, third-party access obviously makes sense. I am interested in whether there will be any restrictions on those third parties. I understand that there will be ministerial overview

of those third-party access capacities, and that Nickel West would require ministerial agreement for any third party wanting access. Can the minister confirm whether that is the case and whether there will be any restrictions on how far afield that supply can come from—interstate, overseas, any of those areas? What restrictions might be in place and what is envisaged? The government is obviously extending the lease, so there is a thought that there are additional resources. If those resources are not in the surrounding area, it obviously makes sense that Nickel West would have access to those, so, on behalf of the opposition, I am fully supportive of that extension. I am just a bit interested in where those resources that are further afield might come from. I do not necessarily think that is a bad thing, either. As I say, I am very supportive of making maximum use of the facilities where they exist, but I am interested in what other resources might be the target of this legislation and from how far afield they might come. It is a fair old shipping exercise out to Leinster if someone is trying to take stuff back the other way. I presume it is not intended that we would see nickel ore coming in from interstate or overseas, but I seek perhaps some definition of where it will potentially come from.

Hon Stephen Dawson: Ask me that one again?

Hon Dr STEVE THOMAS: Basically, because Leinster is so far inland, I am presuming that it is unlikely that any nickel ore will come in from a great distance. Given the shipping cost, I would have thought that no-one is likely to transport bulk volumes from interstate or overseas to that particular unit. I am interested in where additional nickel ore might come from, outside of the extension of the leases that is currently proposed. As I said, I am an absolute believer in making the best use of those facilities, so I am not opposed to it in any way; I am just interested to see where it might come from.

I think that largely covers the key questions that I had. Overall, the opposition supports the bill and the intent of the bill. Let us make the best use of the facilities that we have. There are many good things in the bill; we just have to keep an eye on it. Local procurement is good, but there is not a big population and not a lot of resources out that far, so the definition of “local” is one thing that we will have to keep an eye on. For major projects funded by the commonwealth, “local” generally includes the continents of Australia and New Zealand, so what we call “local” can vary a fair bit. I am sure the intent is to make it as local as possible, but I recognise that for much of the service provision for Leinster, “local” has to end up including the Perth metropolitan area, because unless there is a massive population boom, we will not have that many people out there that far inland from Geraldton. I am not sure how far it is.

Hon Kyle McGinn: Leinster? That’s out near Wiluna.

Hon Dr STEVE THOMAS: Yes, it is probably 700 or 800 kilometres or something. It is a long way out. I do not think we will have a population boom there. Let us make use of the resources that we can, but obviously the definition of “local” will have to be a bit extended on this one.

In summary, there are a few key questions. If we get answers to those, I do not think that we need to go into the committee stage of the bill. The opposition is absolutely supportive of the best use of this facility, and, like the minister, I can only commend the bill to the members of the house.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [12.46 pm] — in reply: At the outset, I acknowledge and thank the Leader of the Opposition for his contribution and for his and the opposition’s support for the legislation that is before us today.

I have a couple of points to make. Yes—the Leader of the Opposition is correct in the value of the sector to Western Australia. In 2020–21, nickel was Western Australia’s fourth most valuable mineral sector and was worth \$3.5 billion.

Hon Dr Steve Thomas: I remember reading that in your original speech.

Hon STEPHEN DAWSON: Yes, so it is not an insignificant amount.

I will answer the questions that the Leader of the Opposition asked. I refer to the alignment with the Mining Act. Some of the things that align this with the Mining Act are the rent on the mining lease, the mining rehabilitation fund—this is the first state agreement that this is now inserted into—the mine closure plan and royalties. The company had previously paid royalties at the Mining Act rate, but this formalises it. In terms of the mining —

Hon Dr Steve Thomas: Sorry, can I just check: so the royalty rate has not changed; it just formalises the rate?

Hon STEPHEN DAWSON: Yes, that is correct. We made a comment that this was a 1974 piece of legislation. A number of things have changed in law since that time. The mining rehabilitation fund came into being in 2012 and the existing nickel Agnew state agreement pre-dates 2012.

Hon Dr Steve Thomas: Yes. At that stage, we dug big holes and just left them there.

Hon STEPHEN DAWSON: It was a very different world. We dug big holes and we left them there, and there was little thought put into the future and how we might rehabilitate.

Hon Dr Steve Thomas: Occasionally, we let the water fill it up, but that wasn't necessarily always a good thing.

Hon STEPHEN DAWSON: Yes, exactly. In terms of the mining rehabilitation fund, Nickel West pays about \$118 000 per annum on existing Mining Act tenements, and it is estimated that an extra \$370 000 per annum will be paid as a result of the variation.

Hon Dr Steve Thomas: Sorry; that is for the rehabilitation?

Hon STEPHEN DAWSON: Yes, this is into the mining rehabilitation fund.

Hon Dr Steve Thomas: It's still a very small amount.

Hon STEPHEN DAWSON: It is not a significant amount, no. It is \$118 000 currently on the existing Mining Act tenements, and it is estimated that about an extra \$370 000 per annum will be paid as a result of the variation.

Third-party access will be managed by a proposed mechanism. The company will need to seek the approval of the minister. If it wanted to seek to process overseas material, that would require the approval of the Minister for State Development, Jobs and Trade.

Hon Dr Steve Thomas: I would imagine that would be quite unlikely, to be honest.

Hon STEPHEN DAWSON: That is what my advisers tell me; it would be quite unlikely.

Hon Dr Steve Thomas: It's still worth asking.

Hon STEPHEN DAWSON: Yes. The thought is that the material may come from the locality, essentially. It would not come great distances.

Hon Dr Steve Thomas: You would have a transport cost that made it difficult.

Hon STEPHEN DAWSON: Yes, and it might be significant at times. That is that. All the third party sources identified in the variation agreement are within 100 kilometres of the Leinster concentrator. On the value —

Hon Dr Steve Thomas: Sorry, before you move on—I am doing this instead of the committee stage.

Hon STEPHEN DAWSON: Yes, of course.

Hon Dr Steve Thomas: Are there already identified operators and sources that are targeted in this?

Hon STEPHEN DAWSON: There would be other BHP-linked companies.

Hon Dr Steve Thomas: Yes, they are the nearby leases.

Hon STEPHEN DAWSON: They may well use this facility.

Hon Dr Steve Thomas: Sorry, Hansard.

Hon STEPHEN DAWSON: On the value, Nickel West has paid about \$675 million in royalties since 2003, which is a significant amount.

Hon Dr Steve Thomas: That is about an eighth of the budget surplus.

Hon STEPHEN DAWSON: It is a significant amount. BHP Nickel West generally employs about 2 500 FTEs and the Leinster operation itself employs 1 415 FTEs. The royalty rate is 2.5 per cent. The member is correct that there are some very good, positive things in this bill before us, like the community development plan and the local participation plan. I spoke about these in my second reading reply. They are in new clauses 10A and 10B. These types of things really drive local economies. It has been hard to get these plans, historically, but I think we are starting to see the benefits of them in local communities.

Hon Dr Steve Thomas: The question will be: how local is local in whatever plan you develop?

Hon STEPHEN DAWSON: I do not have that before me but it is looking to Leinster, Kalgoorlie—the goldfields.

Hon Dr Steve Thomas: It will be as wide, ultimately, as it needs to be to deliver the service but I think it will be pretty wide on this one.

Hon STEPHEN DAWSON: That is opposed to the whole of Western Australia, yes. The member asked about the subleasing. At the moment, if the barber shop—I am not sure, but I think there is a barber in Leinster —

Hon Dr Steve Thomas: Sorry; Hon Kyle McGinn, apparently there is a barber in Leinster! You should take advantage of that!

Hon STEPHEN DAWSON: He said he does not use them. If I give the example —

Hon Dr Steve Thomas: I recommend them!

Hon STEPHEN DAWSON: If I give the example of a barber, at the moment should the barber change in Leinster, the minister actually has to sign off on the subleasing of the barbershop to a new barber. As a result of the changes before this bill, that will not need to happen. BHP can do that.

Hon Dr Steve Thomas: That is why Hon Kyle McGinn’s haircut has not changed; it needs a new barber.

Hon STEPHEN DAWSON: This is about streamlining; it will make it easier for people. There is a requirement to have a mine closure plan as a result of the bill. I think the member had a question about the state agreement area.

Hon Dr Steve Thomas: Yes; do we have an area?

Hon STEPHEN DAWSON: It is not very wide. I do not have a map before me but —

Hon Dr Steve Thomas: Maybe you could present one in the lower house when it gets there?

Hon STEPHEN DAWSON: Yes, we will have it for the other place. There are mining act tenements just outside the existing state agreement area. I am talking kilometres, not big, huge areas. They will now be included in the state agreement area. The local participation plan focuses on Western Australian businesses.

Hon Dr Steve Thomas: Is it statewide?

Hon STEPHEN DAWSON: It could potentially be.

Hon Dr Steve Thomas: In an ideal world, it would be smaller—in Leinster—but unless there is an oversupply of barbers, then you have to go wider.

Hon STEPHEN DAWSON: Leinster itself is essentially a BHP or Nickel West town so it needs to go further afield. Local participation plans focus on WA businesses. The community development plan is focused on Leinster and the goldfields.

Hon Dr Steve Thomas: Is it the whole goldfields?

Hon STEPHEN DAWSON: Yes, the whole goldfields region. I have done the changes to royalties. I have touched on the mining rehabilitation fund. Hopefully, that answers all the honourable member’s questions.

Hon Dr Steve Thomas: I’m happy.

Hon STEPHEN DAWSON: With that, I thank the member for his contribution this afternoon and thank him again for his support and the support of the opposition. I commend the bill to the house.

Question put and passed.

Bill read a second time.

[Leave granted to proceed forthwith to third reading.]

Third Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [12.54 pm]:
I move —

That the bill be now read a third time.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [12.54 pm]: Noting the time, I wonder whether I should curtail my contribution to the third reading debate, quite remarkably, and we might then proceed immediately to the lunchbreak? It seems very unfair to have someone stand up and give a three-minute contribution.

Hon Matthew Swinbourn interjected.

Hon Dr STEVE THOMAS: Yes. Now that the issue of Hon Kyle McGinn’s haircut has been raised, I think it only fair that a contribution to the third reading debate be directed to it. No, I am joking. If we started on that, we would be here all day.

Hon Kyle McGinn interjected.

Hon Dr STEVE THOMAS: Okay. In those circumstances in the third reading, I thank the minister for the information he has provided. Perhaps a little more geographic information could be given when it gets to the other place, but I do not suspect for a minute that would change the support of the opposition. I am very pleased to see the bill pass through in a timely manner. Who said the Legislative Council was slow on legislation? I have no idea.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

Sitting suspended from 12.56 to 2.00 pm