



New South Wales

Central Coast Water Catchments Protection Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to protect the Central Coast water catchments from mining and mining-related activities. This is achieved by prohibiting the grant, renewal or modification of licences, leases, claims and authorities that allow persons to prospect for, and mine, minerals and petroleum (including coal seam gas) in those catchments. The catchment areas concerned are as follows:

- (a) the Mangrove Creek Dam catchment area,
- (b) the Mangrove Creek Weir catchment area,
- (c) the Mardi Dam catchment area,
- (d) the Mooney Mooney Dam catchment area,
- (e) the Ourimbah Creek catchment area,
- (f) the Porters Creek catchment area,
- (g) the Wyong River catchment area.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the day that is 3 months after the date of assent to the proposed Act, unless commenced sooner by proclamation.

Clause 3 provides definitions of terms used in the proposed Act. The clause defines *protected catchment area* to mean the areas declared by the regulations to be each of the Mangrove Creek

Dam catchment area, the Mangrove Creek Weir catchment area, the Mardi Dam catchment area, the Mooney Mooney Dam catchment area, the Ourimbah Creek catchment area, the Porters Creek catchment area and the Wyong River catchment area.

Clause 4 provides for the regulations to declare land where surface water drains to any of those dams to be within those catchment areas. The areas declared by the regulations must not be reduced in size, or the regulations repealed, unless authorised by an Act of Parliament. The clause also provides for the keeping of an inventory of land in protected catchment areas and for the resolution of disputes as to whether or not any particular land is land within a protected catchment area.

Clause 5 prohibits the grant or renewal of any mining authorisation in relation to land in a protected catchment area or the making of any changes to the conditions to which such an authorisation is subject.

Clause 6 prohibits the grant or renewal of any petroleum title in relation to land in a protected catchment area or the making of any changes to the conditions to which such a title is subject.

Clause 7 provides that a planning approval is not to be given under the *Environmental Planning and Assessment Act 1979* in relation to development for the purposes of prospecting and mining activities on land in a protected catchment area.

Clause 8 provides for the making of regulations under the proposed Act.



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New South Wales

Central Coast Water Catchments Protection Bill 2014

No. , 2014

A Bill for

An Act to prohibit the granting, renewal or modification of authorisations that permit exploration for and mining of minerals and petroleum (including coal seam gas) in Central Coast water catchment areas.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Central Coast Drinking Water Catchments Act 2014</i> .	3
2 Commencement	4
This Act commences on the day that is 3 months after the date of assent to this Act, unless commenced sooner by proclamation.	5 6
3 Definitions	7
In this Act:	8
mine means to extract material from land for the purpose of recovering minerals or petroleum from the material so extracted or to rehabilitate land (other than a derelict mine site) from which material has been extracted.	9 10 11
mineral means any substance prescribed by the regulations under the <i>Mining Act 1992</i> and includes coal and oil shale, but does not include uranium or petroleum.	12 13
mining authorisation means any of the following:	14
(a) an exploration licence under the <i>Mining Act 1992</i> granting the holder the right to prospect for minerals on the land specified in the licence,	15 16
(b) an assessment lease under that Act granting the holder the right to prospect for minerals on the land specified in the lease,	17 18
(c) a mining lease under that Act granting the holder the right to prospect on and mine the land specified in the lease, carry out primary treatment operations necessary to separate the mineral or minerals from the material from which they are recovered and carry out any mining purpose on that land,	19 20 21 22
(d) a mineral claim under that Act granting the holder the right to prospect for minerals specified in the claim.	23 24
petroleum means any of the following:	25
(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state,	26 27
(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state,	28 29
(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following:	30 31
(i) hydrogen sulphide,	32
(ii) nitrogen,	33
(iii) helium,	34
(iv) carbon dioxide,	35
(v) water,	36
(d) any substance referred to in paragraph (a), (b) or (c) that has been returned to a natural reservoir,	37 38
but does not include coal, oil shale or any other mineral.	39
petroleum mining operations means operations carried out in the course of mining for petroleum.	40 41
petroleum prospecting operations means operations carried out in the course of prospecting for petroleum.	42 43
petroleum title means any of the following:	44

(a)	an exploration licence under the <i>Petroleum (Onshore) Act 1991</i> granting the holder the exclusive right to prospect for petroleum on the land comprised in the licence,	1 2 3
(b)	an assessment lease under that Act granting the holder the exclusive right to prospect for petroleum and to assess any petroleum deposit on the land comprised in the lease,	4 5 6
(c)	a production lease under that Act granting the holder the exclusive right to conduct petroleum mining operations in and on the land included in the lease,	7 8
(d)	a special prospecting authority under that Act granting the holder the exclusive right to conduct speculative geological, geophysical or geochemical surveys or scientific investigations in relation to petroleum in respect of the land comprised in the authority.	9 10 11 12
	<i>planning approval</i> means any of the following:	13
(a)	development consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> (including consent for State significant development),	14 15
(b)	the modification of any such development consent,	16
(c)	the modification of an approval given under Part 3A of that Act (as continued in force) to carry out a project,	17 18
(d)	an approval within the meaning of Part 5 of that Act,	19
(e)	the modification of such an approval.	20
	<i>prospecting for minerals</i> means carrying out works on, or removing samples from, land for the purpose of testing the mineral bearing qualities of the land.	21 22
	<i>prospecting for petroleum</i> means carrying out works on, or removing samples from, land for the purpose of testing the quality and quantity of petroleum in the land and the potential to recover petroleum from the land.	23 24 25
	<i>protected catchment area</i> means any of the following:	26
(a)	the area declared by the regulations to be the Mangrove Creek Dam catchment area,	27 28
(b)	the area declared by the regulations to be the Mangrove Creek Weir catchment area,	29 30
(c)	the area declared by the regulations to be the Mardi Dam catchment area,	31
(d)	the area declared by the regulations to be the Mooney Mooney Dam catchment area,	32 33
(e)	the area declared by the regulations to be the Ourimbah Creek catchment area,	34
(f)	the area declared by the regulations to be the Porters Creek catchment area,	35
(g)	the area declared by the regulations to be the Wyong River catchment area.	36
4	Protected catchment areas	37
(1)	The Minister must, within 3 months after the date of assent to this Act, recommend to the Governor the making of regulations declaring areas to be:	38 39
(a)	the Mangrove Creek Dam catchment area, or	40
(b)	the Mangrove Creek Weir catchment area, or	41
(c)	the Mardi Dam catchment area, or	42
(d)	the Mooney Mooney Dam catchment area, or	43
(e)	the Ourimbah Creek catchment area, or	44
(f)	the Porters Creek catchment area, or	45
(g)	the Wyong River catchment area.	46

(2)	Without limiting the land that can be declared to be within a protected catchment area:	1
		2
(a)	the area declared by the regulations to be the Mangrove Creek Dam catchment area must include all land from which surface water drains to that dam, and	3
		4
(b)	the area declared by the regulations to be the Mangrove Creek Weir catchment area must include all land from which surface water drains to that weir, and	5
		6
(c)	the area declared by the regulations to be the Mardi Dam catchment area must include all land from which surface water drains to that dam, and	7
		8
(d)	the area declared by the regulations to be the Mooney Mooney Dam catchment area must include all land from which surface water drains to that dam, and	9
		10
(e)	the area declared by the regulations to be the Ourimbah Creek catchment area must include all land from which surface water drains to that creek, and	11
		12
(f)	the area declared by the regulations to be the Porters Creek catchment area must include all land from which surface water drains to that creek, and	13
		14
(g)	the area declared by the regulations to be the Wyong River catchment area must include all land from which surface water drains to that river.	15
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(3)	A catchment area declared under this section must not be reduced in size, and a regulation declaring an area of land to be a catchment area must not be repealed, unless authorised by an Act of Parliament.	17
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(4)	The Secretary of the Department of Trade and Investment, Regional Infrastructure and Services is to maintain an inventory of protected catchment areas.	20
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(5)	The inventory is to contain maps that enable protected catchment areas to be identified and must be made available for public inspection on the Department's website.	22
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(6)	If any dispute arises as to whether or not any particular land is within a protected catchment area, any party to the dispute may apply to the Land and Environment Court for a determination of the matter (in which case the Court has jurisdiction to hear and determine the matter).	25
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5	Prohibition on grant of mining authorisations relating to protected catchment areas	29
(1)	The Minister administering the <i>Mining Act 1992</i> must not:	30
(a)	grant any mining authorisation in relation to land in a protected catchment area, or	31
		32
(b)	renew any mining authorisation in relation to land in a protected catchment area, or	33
		34
(c)	amend, omit or impose any condition to which a mining authorisation in relation to land in a protected catchment area is subject.	35
		36
(2)	To avoid doubt, this section extends to prohibiting the Minister granting any mining authorisation of a particular type in relation to land to a person who holds a different type of mining authorisation in relation to that land.	37
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		39
6	Prohibition on grant of petroleum titles relating to protected catchment areas	40
(1)	The Minister administering the <i>Petroleum (Onshore) Act 1991</i> must not:	41
(a)	grant any petroleum title in relation to land in a protected catchment area, or	42
(b)	renew any petroleum title in relation to land in a protected catchment area, or	43
(c)	amend, omit or impose any condition to which a petroleum title in relation to land in a protected catchment area is subject.	44
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(2)	To avoid doubt, this section extends to prohibiting the Minister granting any petroleum title of a particular type in relation to land to a person who holds a different type of petroleum title in relation to that land.	1 2 3
7	Restrictions on planning approvals	4
(1)	Planning approval cannot be given or granted for any of the following purposes:	5
(a)	prospecting for any mineral on, over or beneath the surface of land in a protected catchment area,	6 7
(b)	mining for any mineral on, over or beneath the surface of land in a protected catchment area,	8 9
(c)	petroleum prospecting operations on, over or beneath the surface of land in a protected catchment area,	10 11
(d)	petroleum mining operations on, over or beneath the surface of land in a protected catchment area.	12 13
(2)	Any planning approval given or granted for any of the purposes specified in subsection (1) before the commencement of this Act is cancelled.	14 15
(3)	Any planning approval that is given or granted in contravention of this section after the commencement of this Act has no effect.	16 17
8	Regulations	18
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	19 20 21 22