



New South Wales

Wyong Special Area (Protection) Bill 2018

Explanatory note

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

Overview of Bill

The object of this Bill is to protect certain land at Wyong from mining and mining-related activities. This is achieved by prohibiting the granting, renewal or modification of licences, leases, claims and authorities, and the granting of planning approvals, that allow persons to prospect for, and mine, minerals and petroleum on that land. The land concerned is the site of the Wallarah 2 coal mine project.

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 date of assent to the proposed Act.

Clause 3 defines terms used in the proposed Act. *Wyong special area* is defined to mean the land subject to certain exploration licences and an authorisation granted under the *Mining Act 1992* (namely, EL6514, EL4911 and A405).

Clause 4 prohibits the grant or renewal of any mining authorisation in relation to land in the Wyong special area and the making of any changes to the conditions to which such an authorisation is subject.

Clause 5 prohibits the grant or renewal of any petroleum title in relation to land in the Wyong special area and the making of any changes to the conditions to which such a title is subject.

Clause 6 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 the Wyong special area and cancels any such planning approval already given.



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New South Wales

Wyong Special Area (Protection) Bill 2018

No , 2018

A Bill for

An Act to prohibit the granting, renewal or modification of exploration, prospecting and mining authorities and titles for minerals and petroleum, and certain planning approvals, that relate to land at Wyong that is the site of the Wallarah 2 coal mine project; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Wyong Special Area (Protection) Act 2018*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Definitions

In this Act:

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.

mineral means any substance prescribed by the regulations under the *Mining Act 1992* and includes coal and oil shale, but does not include uranium or petroleum.

mining authorisation means any of the following:

- (a) an exploration licence under the *Mining Act 1992* granting the holder the right to prospect for minerals on the land specified in the licence,
- (b) an assessment lease under that Act granting the holder the right to prospect for minerals on the land specified in the lease,
- (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,
- (d) a mineral claim under that Act granting the holder the right to prospect for minerals specified in the claim.

petroleum means any of the following:

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state,
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state,
- (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:
 - (i) hydrogen sulphide,
 - (ii) nitrogen,
 - (iii) helium,
 - (iv) carbon dioxide,
 - (v) water,
- (d) any substance referred to in paragraph (a), (b) or (c) that has been returned to a natural reservoir,

but does not include coal, oil shale or any other mineral.

petroleum mining operations means operations carried out in the course of mining for petroleum.

petroleum prospecting operations means operations carried out in the course of prospecting for petroleum.

petroleum title means any of the following:

- (a) an exploration licence under the *Petroleum (Onshore) Act 1991* granting the holder the exclusive right to prospect for petroleum on the land comprised in the licence,
- (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,
- (c) a production lease under that Act granting the holder the exclusive right to conduct petroleum mining operations in and on the land comprised in the lease,
- (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.

planning approval means any of the following:

- (a) development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (including consent for State significant development),
- (b) the modification of any such development consent,
- (c) the modification of an approval given under Part 3A of that Act (as continued in force) to carry out a project,
- (d) an approval within the meaning of Part 5 of that Act,
- (e) an approval of State significant infrastructure within the meaning of Part 5.1 of that Act,
- (f) the modification of an approval referred to in paragraph (e).

prospecting for minerals means carrying out works on, or removing samples from, land for the purpose of testing the mineral bearing qualities of the land.

prospecting for petroleum 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.

Wyang special area means land subject to the following current and former mining authorisations:

- (a) exploration licence number EL6514 renewed on and from 24 October 2011,
- (b) exploration licence number EL4911 dated October 1995,
- (c) authorisation number A405 dated 1995.

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

4 Prohibition on grant of mining authorisations relating to Wyong special area

- (1) The Minister administering the *Mining Act 1992* must not:
 - (a) grant any mining authorisation in relation to land in the Wyong special area, or
 - (b) renew any mining authorisation in relation to land in the Wyong special area, or
 - (c) vary, omit or impose any condition to which a mining authorisation in relation to land in the Wyong special area is subject.
- (2) To avoid doubt, this section extends to prohibiting the Minister from 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.

5	Prohibition on grant of petroleum titles relating to Wyong special area	1
(1)	The Minister administering the <i>Petroleum (Onshore) Act 1991</i> must not:	2
(a)	grant any petroleum title in relation to land in the Wyong special area, or	3
(b)	renew any petroleum title in relation to land in the Wyong special area, or	4
(c)	vary, omit or impose any condition to which a petroleum title in relation to land in the Wyong special area is subject.	5 6
(2)	To avoid doubt, this section extends to prohibiting the Minister from 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.	7 8 9
6	Restrictions on certain planning approvals relating to Wyong special area	10
(1)	Planning approval cannot be given or granted for any of the following purposes:	11
(a)	prospecting for any mineral on, over or beneath the surface of land in the Wyong special area,	12 13
(b)	mining for any mineral on, over or beneath the surface of land in the Wyong special area,	14 15
(c)	petroleum prospecting operations on, over or beneath the surface of land in the Wyong special area,	16 17
(d)	petroleum mining operations on, over or beneath the surface of land in the Wyong special area.	18 19
(2)	Any planning approval given or granted for any of the purposes specified in subsection (1) before the commencement of this Act is cancelled.	20 21
(3)	Any planning approval that is given or granted in contravention of this section after the commencement of this Act has no effect.	22 23