

THIRD PRINT

KHAPPINGHAT NATURE RESERVE BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Definitions
4. Vesting of land
5. Survey of land that is to be subject to mining lease
6. Dedication of land as Khappinghat Nature Reserve
7. Revocation of dedication of certain state forests and flora reserves
8. Revocation of existing interests
9. Removal of mining construction and restoration of land
10. Monitoring

SCHEDULE 1—KHAPPINGHAT NATURE RESERVE

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to protect certain land by dedicating it as Khappinghat Nature Reserve.

Khappinghat Nature Reserve 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Khappinghat Nature Reserve Act 1993.

5 Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act:

10 **“mining construction”** means any building, structure, machinery or other works partly or wholly erected for purposes connected with prospecting or mining for minerals;

15 **“mining interest”** means any authority, authorisation, claim, lease or licence under the Mining Act 1992 or Petroleum (Onshore) Act 1991 or any permit or licence under the Petroleum (Submerged Lands) Act 1982;

“survey publication date” means the date on which a survey is published in accordance with section 5;

“surveyed mine area” means the mine area and access road identified by the survey published in accordance with section 5.

20 Vesting of land

4. The land described in Schedule 1 is vested in the Minister administering the National Parks and Wildlife Act 1974.

Survey of land that is to be subject to mining lease

25 5. (1) The Director of National Parks and Wildlife must cause a survey to be carried out of the boundaries of that part of the land described in Schedule 1 to which mining should be confined, as recommended by the Commission of Inquiry Report on the Proposed Mineral Sands Mine at Saltwater, City of Taree dated August 1992.

30 (2) The Director, if satisfied that the survey complies with this section, must cause the description of the boundaries of the relevant land resulting from that survey to be published in the Gazette, after:

(a) any licence applications required to be made under the National Parks and Wildlife Act 1974 have been determined; and

Khappinghat Nature Reserve 1993

(b) mining lease application catalogued No. 126, Coffs Harbour, in the Department of Mineral Resources has been determined or withdrawn.

(3) The boundaries as ascertained by the survey must generally correspond to the boundaries of the area referred to in the Commission of Inquiry Report as "The Mine Area", to the extent that that Area and any access road fall within the land described in Schedule 1. The Mine Area so referred to is: all that piece and parcel of land situated at Saltwater in the City of Greater Taree, Parishes of Beryan and Bohnock, County of Gloucester bounded by a line commencing at the southern boundary of MLA 126, 15 metres west of the eastern boundary of MLA 126, for a distance of 450 metres, thence by the eastern boundary of MLA 126 or a line 10 metres west of the dune crest (whichever is the further west) to the northern boundary of MLA 126, thence west along the dune crest to the line drawn on Map A (at page 120 of that Report) delineating the western extremity of mining, thence by the lastmentioned line to the southern boundary of MLA 126, thence by the southern boundary of MLA 126 to a point 15 metres west of the eastern boundary of MLA 126.

Dedication of land as Khappinghat Nature Reserve

6. (1) The land described in Schedule 1, other than the surveyed mine area, is dedicated as the Khappinghat Nature Reserve on the survey publication date.

(2) The surveyed mine area is dedicated as part of the Khappinghat Nature Reserve on the fourth anniversary of the survey publication date.

(3) Lands dedicated under this section are, on and from the date of dedication, taken to have been dedicated as a nature reserve by proclamation under section 49 (1) of the National Parks and Wildlife Act 1974.

(4) Section 35 of the National Parks and Wildlife Act 1974 does not apply in relation to a dedication under this section.

Revocation of dedication of certain state forests and flora reserves

7. (1) The dedication, as a state forest under the Forestry Act 1916, of so much of the land described in Schedule 1 as is a state forest, or part of a state forest, is revoked on the survey publication date.

(2) The dedication or setting apart, as a flora reserve under the Forestry Act 1916, of so much of the land described in Schedule 1 as is a flora reserve is revoked on the survey publication date.

Khappinghat Nature Reserve 1993

(3) A revocation effected by this section in relation to any land does not affect anything done or omitted to be done before the commencement of this Act.

Revocation of existing interests

5 **8.** (1) All existing interests within the meaning of section 39 of the National Parks and Wildlife Act 1974, including all mining interests, relating to the land described in Schedule 1 (other than the surveyed mine area) are revoked on the survey publication date.

10 (2) All existing interests within the meaning of section 39 of the National Parks and Wildlife Act 1974, including all mining interests, relating to the surveyed mine area are revoked on the third anniversary of the survey publication date.

Removal of mining construction and restoration of land

15 **9.** (1) This section applies to a person who, immediately before the date of assent to this Act, was the holder of a mining interest relating to the whole or any part of the land described in Schedule 1, except as provided by subsection (2).

20 (2) If, however, a mining lease is granted over any part of the surveyed mine area within 12 months after the date of assent to this Act, this section:

- (a) applies to the person to whom the lease was granted; or
- (b) if the lease is transferred (whether on one or more than one occasion), applies to the transferee (and ceases to apply to the transferor).

25 (3) A person to whom this section applies who has erected a mining construction under, on or over the land described in Schedule 1 must, as soon as practicable after the prescribed date, remove the construction from the land.

30 (4) The revocation by this Act of mining interests affecting the land described in Schedule 1 does not affect the operation of any provisions of the Mining Act 1992, or of the conditions subject to which the interest was granted, that require the rehabilitation, levelling, contouring or revegetation of the land. Any such provisions are to be complied with to the satisfaction of the Minister administering the Mining Act 1992. That
35 Minister may not declare satisfactory compliance until after concurrence with the Minister administering the National Parks and Wildlife Act 1974.

Khappinghat Nature Reserve 1993

(5) All costs, charges and expenses incurred by a person in complying with this section are to be met by the person from his or her own funds.

(6) In this section, “the prescribed date”:

- (a) for the land described in Schedule 1, other than the surveyed mine area, means the survey publication date; or 5
- (b) for the surveyed mine area, means the third anniversary of the survey publication date.

Monitoring

10. (1) The Director of National Parks and Wildlife is empowered to:

- (a) monitor the development of the mine area for a period of 2 years commencing on the date of assent or for the duration of all mining interests in the mine area; and 10
- (b) monitor the removal of structures from the land described in schedule 1 and monitor the restoration of the mine area; and
- (c) monitor the mine area for a period of 10 years commencing on the date of assent to this Act, to ascertain whether further restoration of the mine is necessary. 15

(2) The Environmental Review Monitoring Committee referred to at pages 77–78 of the Commission of Inquiry Report on the Proposed Mineral Sands Mine at Saltwater, City of Taree dated August 1992 is to include: 20

- (a) a representative of the National Parks Association of NSW; and
- (b) a representative of the Greater Taree City Council; and
- (c) a representative of the Purfleet/Taree Local Aboriginal Land Council; and 25
- (d) 3 community representatives chosen by the Director of National Parks and Wildlife to represent local community groups.

(3) The Director may, for the purposes of this section, seek nominations from local community groups and choose 3 representatives from those persons nominated. The Director must make the choice within 3 months of the date of assent to this Act. 30

(4) The committee must prepare a report on the rehabilitation and nature conservation of the surveyed mine area. The report must address the matters contemplated by the Commission of Inquiry at pages 77–78 of the Commission’s report and outlined on pages 174–175 of that report. 35

(5) The committee must submit its report to the Director of National Parks and Wildlife.

Khappinghat Nature Reserve 1993

(6) A person having a mining interest in the mining area is to afford the Director of National Parks and Wildlife and any officer of the National Parks and Wildlife Service reasonable access to the area for the purposes of this section.

5 **SCHEDULE 1—KHAPPINGHAT NATURE RESERVE**

(Sec. 4)

All that piece or parcel of land situated at Saltwater in the City of Greater Taree, Parishes of Beryan and Bohnock, County of Gloucester, containing an area of about 440 hectares; bounded by Lot 11, DP 559439, end of road, Portion 79, end of road, Lots 52 and 51, DP 604964, Lot 4, DP 247675, the limit of tidal influence of Allard Creek, Portion 77 (Parish Beryan), the limit of tidal influence of Khappinghat Creek, Portion 141, end of road, Portions 140 and 165, the limit of tidal influence of Koorainghat Creek, Portion 139, end of road, Lot 3, DP 114696, Portions 15 57, 58, 36 and 58 aforesaid, end of road, part Kiwarrak State Forest No. 298, notified 27 June, 1975 and 7 February, 1964, respectively, Portion 108, Lot 1, DP 614087, Reserve No. 64492 for Public Recreation, notified 6 April, 1934, Lot 2, DP 614087, a line extending from the southern-most south-eastern corner of Lot 2 aforesaid, to the 20 south-western corner of Portion 124, the mean high water mark of Khappinghat Creek (Parish Bohnock), a line extending south from the mean high water mark of the northern side of Khappinghat Creek to the mean high water mark of the South Pacific Ocean, the mean high water mark of the South Pacific Ocean and the easterly prolongation of the 25 northern boundary of Lot 11, DP 559439 (Parish Beryan); inclusive of the beds of all creeks and streams, and the islands within Khappinghat Creek.

Also all that piece and parcel of land of about 200 hectares situated at Saltwater in the City of Greater Taree, Parish of Beryan, County of Gloucester, being Portion 79 and being part of Kiwarrak State Forest No. 30 298 and Extension 4 thereto, dedicated by proclamation published in the Gazette on 28 October 1949.

Also all that piece and parcel of land situated at Saltwater in the City of Greater Taree, Parish of Bohnock, County of Gloucester, being lands within part of Kiwarrak State Forest No. 298 and Extensions Nos. 13 and 35 15 thereto (including Portion 177), dedicated by proclamations published in the Gazette on 7 February 1964 and 27 June 1975 respectively.
