



New South Wales

Mining Amendment (Development Consent) Bill 2013

Explanatory note

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

Overview of Bill

The object of this Bill to amend the *Mining Act 1992* to clarify the requirement for appropriate development consents for activities carried out under mining leases.

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.

Schedule 1 Amendment of Mining Act 1992 No 29

Schedule 1 [1] amends the requirement for there to be an appropriate development consent (which may include approvals under the former Part 3A and Part 5.1 of the *Environmental Planning and Assessment Act 1979*) before a mining lease is granted. The requirement will apply if a development consent is required for carrying out activities to be carried out under the lease on land to which the lease applies and does not require there to be a link between the category of mining lease and the nature of the development consent. The amendment also makes it clear that nothing in the *Mining Act 1992* permits an activity to be carried out under a mining lease without any required development consent under the *Environmental Planning and Assessment Act 1979*.

Schedule 1 [2] provides that a mining lease granted before the commencement of the proposed Act is taken to comply, and to have always complied, with the requirement for there to be an appropriate development consent before the mining lease was granted if there was a development

consent relating to any of the activities permitted under the lease when the lease was granted. The provision will also apply to a mining lease found to be invalid if the ground of invalidity was a failure to comply with the requirement for an existing development consent and there was an existing development consent applicable to a permitted activity under the mining lease.



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New South Wales

Mining Amendment (Development Consent) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Mining Act 1992* with respect to development consents for activities under mining leases.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Mining Amendment (Development Consent) Act 2013*.

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2 Commencement

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

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Schedule 1	Amendment of Mining Act 1992 No 29	1
[1]	Section 65 Development consents under the Environmental Planning and Assessment Act 1979	2
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	Omit section 65 (1) and (2). Insert instead:	4
	(1) The Minister must not grant a mining lease over land if development consent is required for activities to be carried out under the lease unless an appropriate development consent is in force in respect of the carrying out of those activities on the land.	5
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	(2) Nothing in this Act permits an activity, for which development consent is required, to be carried out without the consent being obtained in accordance with the <i>Environmental Planning and Assessment Act 1979</i> .	9
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[2]	Schedule 6 Savings, transitional and other provisions	12
	Insert with appropriate Part and clause numbers at the end of the Schedule:	13
Part	Provisions consequent on enactment of Mining Amendment (Development Consent) Act 2013	14
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	Existing mining leases	16
	(1) This clause applies to a mining lease granted before the commencement of the <i>Mining Amendment (Development Consent) Act 2013</i> for which an appropriate development consent was required under section 65.	17
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	(2) If a development consent was in force in relation to land over which the mining lease was granted when the lease was granted and the development consent related to any of the activities permitted under the lease by this Act, the grant of the mining lease is taken to comply, and to always have complied, with the requirements of section 65.	20
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	(3) To avoid doubt and without limiting subclause (2), a development consent related to a mining purpose permitted under a mining lease granted in respect of a mineral or minerals is sufficient for the purposes of that subclause even if the development consent is not for the mining of a mineral or minerals.	25
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	(4) This clause applies to a mining lease even if the mining lease is or has been found to be invalid because of a contravention of the requirements of section 65.	29
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