



New South Wales

Responsible Mining (Protecting Land, Water and Communities) 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 certain land, water and communities from mining and mining-related activities:

- (a) by regulating prospecting for, and the mining of, minerals and petroleum in certain environmentally-sensitive areas, including national parks, state conservation areas, productive agricultural land and near rivers, and
- (b) by preventing planning approval being given to prospecting or mining activities in such areas unless a positive gateway determination has been made by an independent body, and
- (c) by prohibiting prospecting or mining activities from interfering with highly productive aquifers, and
- (d) by providing for the involvement of local councils and communities in the prohibition of other prospecting or mining activities, and
- (e) by ensuring that landholders can refuse to allow the holders of mining authorisations or petroleum titles to carry out prospecting or mining operations on their land, and
- (f) by re-enacting a requirement that the public interest be considered as a relevant ground in making certain decisions about mining rights.

Outline of provisions

Part 1 Preliminary

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 3 months after the date of assent to the proposed Act, unless commenced sooner by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Protected land

Clause 4 defines *protected land* to include the following:

- (a) national parks and state conservation areas and land within 2 kilometres of such parks or areas,
- (b) State forests and land within 2 kilometres of such forests,
- (c) the area of operations of the Sydney Catchment Authority and land within 2 kilometres of that area,
- (d) certain urban areas and land within 5 kilometres of such areas,
- (e) productive agricultural land and land within 2 kilometres of such land,
- (f) protected catchment areas,
- (g) Tier 1 Biodiversity land and land within 2 kilometres of such land.

Clause 5 provides for the regulations to declare areas to be protected catchment areas (which are within the definition of *protected land*).

Clause 6 provides for the Minister to declare land to be Tier 1 Biodiversity (which is within the definition of *protected land*).

Clause 7 provides for the keeping of an inventory of protected land.

Clause 8 provides for the resolution of disputes as to whether or not any particular land is protected land.

Part 3 Prohibition on new or renewed prospecting for and mining of minerals or petroleum on protected land

Clause 9 prohibits the granting of any mining authorisation in relation to protected land.

Clause 10 prohibits the renewal of any mining authorisation in relation to protected land.

Clause 11 prohibits the granting of any petroleum title in relation to protected land.

Clause 12 prohibits the renewal of any petroleum title in relation to protected land.

Part 4 Restrictions on mining and prospecting operations on protected land and certain other land

Clause 13 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 protected land unless the determining authority has had regard to a gateway certificate issued under proposed Part 5 (which will only be issued if the development meets the relevant criteria specified in proposed section 22).

Clause 14 prohibits any prospecting for, or the mining of, any mineral, or the conduct of any petroleum prospecting or petroleum mining operations, that interferes with highly productive aquifers.

Clause 15 provides that an environmental planning instrument (whether a local environmental plan or a State environmental planning policy) cannot permit the carrying out of prospecting for, or mining of, minerals or petroleum on protected land.

Clause 16 provides that any provision of an environmental planning instrument in force immediately before the commencement of the proposed Act that permits the carrying out of prospecting for, or mining of, minerals or petroleum on protected land ceases to have effect in relation to the protected land.

Part 5 Gateway certificates

Clause 17 establishes the Mining and Petroleum Gateway Panel.

Clause 18 specifies the function of the Gateway Panel, which is to consider applications for gateway certificates.

Clause 19 provides that the Gateway Panel is not subject to the direction or control of the Minister.

Clause 20 provides for the Minister administering the *Agricultural Industry Services Act 1998* and the Minister administering the *Destination NSW Act 2011* to declare land to be critical industry cluster land.

Clause 21 provides for the making of applications for gateway certificates.

Clause 22 specifies the criteria to be considered in determining applications for gateway certificates.

Clause 23 provides for the determination of applications for gateway certificates by the Gateway Panel.

Clause 24 specifies the maximum time for the determination of applications for gateway certificates.

Clause 25 provides for the Gateway Panel to request further information before determining an application for a gateway certificate.

Clause 26 provides that a gateway certificate remains current for 5 years.

Clause 27 provides for the giving of notice of the determination of applications for gateway certificates.

Part 6 Independent Mining and Petroleum Authority

Clause 28 establishes an Independent Mining and Petroleum Authority and provides that the Authority is, in the exercise of its functions, not generally subject to the control and direction of the Secretary or the Minister.

Clause 29 specifies the functions of the Independent Authority.

Clause 30 empowers the Independent Authority to require the production of a statement of information.

Clause 31 empowers the Independent Authority to obtain documents.

Clause 32 provides for the Independent Authority to make reports on the results of assessments that it makes.

Part 7 Community vetoing of prospecting and mining

Clause 33 provides that a local council may request the Minister administering the *Environmental Planning and Assessment Act 1979* to make a local environmental plan that prohibits prospecting and mining activities.

Clause 34 provides that that Minister must make a local environmental plan in response to any such request.

Clause 35 provides that a local environmental plan made in accordance with proposed section 33 prevails over any other environmental planning instrument (whether a local environmental plan or a State environmental planning policy) to the extent of any inconsistency.

Clause 36 provides that any environmental planning instrument (whether a local environmental plan or a State environmental planning policy) that is inconsistent with a local environmental plan required to be made under the proposed Part is without effect.

Part 8 Miscellaneous

Clause 37 provides for the making of regulations under the proposed Act.

Clause 38 provides for the making of savings and transitional regulations.

Clause 39 provides that offences under the proposed Act may be dealt with summarily before the Local Court.

Clause 40 provides for the delegation of the Secretary's functions.

Schedule 1 Amendment of Mining Act 1992 No 29

Schedule 1 [3] makes it clear that the holder of a prospecting title (an exploration licence or assessment lease) must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land. Prospecting operations must not be carried out unless there is an access arrangement agreed between the holder of the prospecting title and all the landholders of the area of land concerned. The ability to prospect under arrangements determined by an arbitrator (when the landholder does not agree) is omitted.

Schedule 1 [1], [2], [4], [5], [9], [10], [12], [15], [18], [20] and [23] omit redundant references about arbitrators and the determination of access arrangements by arbitrators in cases where the landholder does not consent to the prospecting operations.

Schedule 1 [6] provides that the overall principles to be observed by the holder of a prospecting title in negotiating an access arrangement are that the landholder should not be in an overall worse position financially as a consequence of the holder of the prospecting title exercising the holder's rights under the *Mining Act 1992*, and that the landholder's land should not be in an overall worse condition environmentally as a consequence of the holder of the prospecting title exercising the holder's rights under that Act.

Schedule 1 [7] provides that, if the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

Schedule 1 [8] provides that the holder of the prospecting title must pay the legal costs of the landholder incurred in connection with the holder of the prospecting title seeking access to land, including, but not limited to, the negotiation and making of an access arrangement. **Schedule 1 [5]** makes a consequential amendment.

Schedule 1 [11] removes the procedure for a variation of an access arrangement to be determined by an arbitrator.

Schedule 1 [13] removes the procedure for a replacement access arrangement to be determined by an arbitrator when there is a change in landholder.

Schedule 1 [14] inserts a note relating to the payment of interest and penalty tax whenever a payment of royalty is late.

Schedule 1 [16] makes it an offence for a person, while holding office or exercising functions under the *Mining Act 1992*, to have a beneficial interest in an authority, a mineral claim or an opal prospecting licence (whereas at present a person is only prohibited from actually holding an authority, claim or licence).

Schedule 1 [17] re-inserts a provision requiring the public interest to be a relevant ground for making certain decisions about mining rights, in place of a fit and proper person test.

Schedule 1 [19] provides for immunity for landholders relating to the exercise of any power or right by or under any other Act, in connection with a power or right exercised under the *Mining Act 1992* or an authority under that Act.

Schedule 1 [21] provides that the amendments made by Schedule 1 that relate to access arrangements do not apply if an access arrangement determined by an arbitrator was in force immediately before the commencement of the proposed Act. Such an access arrangement will continue to be valid. The amendments about legal costs do not apply in respect of legal costs relating to an access arrangement for which notice was given before the commencement of the amendments.

Schedule 1 [22] is consequential on the creation of an indictable offence by Schedule 1 [16].

Schedule 2 Amendment of Petroleum (Onshore) Act 1991 No 84

Schedule 2 [1] inserts a definition of *rehabilitation*. The term is defined to mean the treatment or management of land, or of water, that may have been damaged or adversely affected by activities under a petroleum title, so that it is returned to its original condition or to an improved condition, including (but not limited to) the levelling, regrassing, reforestation or contouring of any part of the land the subject of the title, and the filling in or sealing of excavation and drill holes.

Schedule 2 [2] prohibits the Minister from suspending a condition of a petroleum title relating to environmental management, the conservation or protection of the environment or the rehabilitation of any land or water.

Schedule 2 [7] makes it clear that the holder of a prospecting title (an exploration licence, assessment lease or special prospecting authority) must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land. Prospecting operations must not be carried out unless there is an access arrangement agreed between the holder of the prospecting title and all the landholders of the area of land concerned. The ability to prospect under arrangements determined by an arbitrator (when the landholder does not agree) is omitted.

Schedule 2 [4], [5], [9]–[13] and [18]–[20] extend the operation of a Part about access arrangements for prospecting titles so that it also applies to petroleum mining operations under production leases and make it clear that the holder of a production lease must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.

Schedule 2 [3], [6], [8], [21], [23] and [33] omit redundant references to arbitrators and to access arrangements being determined by arbitrators in cases where the landholder does not consent to the prospecting operations.

Schedule 2 [15] provides that the overall principles to be observed by the holder of a prospecting title or production lease in negotiating an access arrangement are that the landholder should not be in an overall worse position financially as a consequence of the holder of the prospecting title or production lease exercising the holder's rights under the *Petroleum (Onshore) Act 1991*, and that the landholder's land should not be in an overall worse condition environmentally as a consequence of the holder of the prospecting title or production lease exercising the holder's rights under that Act.

Schedule 2 [16] provides that, if the holder of a prospecting title or production lease contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

Schedule 2 [17] provides that the holder of the prospecting title or production lease must pay the legal costs of the landholder incurred in connection with the holder of the prospecting title or production lease seeking access to land, including, but not limited to, the negotiation and making of an access arrangement. **Schedule 2 [14]** makes a consequential amendment.

Schedule 2 [22] removes the procedure for a variation of an access arrangement to be determined by an arbitrator.

Schedule 2 [24] removes the procedure for a replacement access arrangement to be determined by an arbitrator when there is a change in landholder.

Schedule 2 [25]–[27] modify provisions about restrictions on the rights of holders of production leases over land that is under cultivation. The amended provisions will apply those restrictions to land that has been determined to be agricultural land in accordance with the amended section.

Schedule 2 [28] inserts provisions about audits. The provisions:

- (a) describe the nature of an audit and provide for regulations to be made with respect to the accreditation of auditors and the carrying out of audits, and
- (b) enable the Director-General to impose mandatory audit conditions on petroleum titles, and
- (c) provide for the certification of an audit report, and
- (d) make it an offence (of strict liability) to provide false or misleading information to an auditor or in an audit report and also make it an offence for an auditor not to include in an audit information that is materially relevant, and
- (e) require information to be supplied for audit purposes even if it may incriminate the person concerned and authorise the use of information contained in an audit for the purposes of planning and environment protection legislation, and
- (f) make provision for the mandatory audit of the Department's performance in administering the *Petroleum (Onshore) Act 1991*, the *Mining Act 1992* and the proposed Act, monitoring the implementation of those 3 Acts and enforcing the conditions of petroleum titles and mining authorities.

Schedule 2 [29] makes it an offence to fail to pay any royalty and enables the Minister to charge interest on the amount of any unpaid royalty.

Schedule 2 [30] enables the Director-General to publish environmental information about the impact of petroleum prospecting and mining activities obtained by the Director-General or the Independent Authority.

Schedule 2 [31] prohibits a person who holds office in an official capacity for the purposes of the *Petroleum (Onshore) Act 1991* from holding directly or indirectly a beneficial interest in a petroleum title (and not merely from holding a petroleum title, as at present). The provision does not prevent the Director-General from being the holder of an exploration licence on behalf of the Crown.

Schedule 2 [32] provides for the proposed offence relating to failure to pay a royalty to be dealt with on indictment.

Schedule 2 [34] provides for immunity for landholders relating to the exercise of any power or right by or under any other Act, in connection with a power or right exercised under the *Petroleum (Onshore) Act 1991* or a petroleum title under that Act.

Schedule 2 [35] provides that the amendments proposed to be made by Schedule 2 that relate to access arrangements do not apply if an access arrangement determined by an arbitrator was in force immediately before the commencement of the proposed Act. Such an access arrangement will continue to be valid. The amendments relating to legal costs do not apply in respect of legal costs relating to an access arrangement for which notice was given before the commencement of the amendments.

Schedule 3 Amendment of Criminal Procedure Act 1986 No 209

Schedule 3 makes amendments consequential on the creation of indictable offences by Schedule 1 [16] and Schedule 2 [31].



New South Wales

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New South Wales

Responsible Mining (Protecting Land, Water and Communities) Bill 2014

No. , 2014

A Bill for

An Act to prohibit exploration for and mining of minerals and petroleum on certain land and to ensure the involvement of local councils and communities in the prohibition of such exploration and mining on other land; and for other purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> .	4 5
2 Commencement	6
This Act commences 3 months after the date of assent to this Act, unless commenced sooner by proclamation.	7 8
3 Definitions	9
(1) In this Act:	10
<i>authorised mining or petroleum activity</i> means any of the following:	11
(a) prospecting for minerals in accordance with a mining authorisation,	12
(b) mining in accordance with a mining authorisation,	13
(c) carrying out primary treatment operations necessary to separate minerals from the material from which they are recovered in accordance with a mining authorisation,	14 15 16
(d) carrying out any other mining purpose in accordance with a mining authorisation,	17 18
(e) prospecting for petroleum in accordance with a petroleum title,	19
(f) assessing any petroleum deposit on land in accordance with a petroleum title,	20
(g) conducting petroleum mining operations in accordance with a petroleum title,	21
(h) conducting speculative geological, geophysical or geochemical surveys or scientific investigations in relation to petroleum in accordance with a petroleum title.	22 23 24
<i>critical industry cluster land</i> means land that has been declared to be critical industry cluster land under section 20.	25 26
<i>Department</i> means the Department of Trade and Investment, Regional Infrastructure and Services.	27 28
<i>development</i> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .	29 30
<i>gateway certificate</i> means a certificate issued by the Gateway Panel under section 23.	31 32
<i>Gateway Panel</i> means the Mining and Petroleum Gateway Panel established under section 17.	33 34
<i>Independent Authority</i> means the Independent Mining and Petroleum Authority established by section 28.	35 36
<i>mine</i> 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.	37 38 39
<i>mineral</i> 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.	40 41
<i>mining authorisation</i> means any of the following:	42
(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,	43 44

- (b) an assessment lease under that Act granting the holder the right to prospect for minerals on the land specified in the lease, 1
2
- (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 on that land any mining purpose, 3
4
5
6
- (d) a mineral claim under that Act granting the holder the right to prospect for, and mine, minerals specified in the claim. 7
8
- petroleum** means any of the following: 9
- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state, 10
11
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state, 12
13
- (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: 14
15
- (i) hydrogen sulphide, 16
- (ii) nitrogen, 17
- (iii) helium, 18
- (iv) carbon dioxide, 19
- (v) water, 20
- (d) any substance referred to in paragraph (a), (b) or (c) that has been returned to a natural reservoir, 21
22
- but does not include coal, oil shale or any other mineral. 23
- petroleum mining operations** means operations carried out in the course of mining for petroleum. 24
25
- petroleum prospecting operations** means operations carried out in the course of prospecting for petroleum. 26
27
- petroleum title** means any of the following: 28
- (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, 29
30
31
- (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, 32
33
34
- (c) 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, 35
36
37
38
- (d) 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. 39
40
- planning approval** means any of the following: 41
- (a) development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (including consent for State significant development) or the modification of any such development consent, 42
43
44
- (b) the modification of an approval given (before the commencement of this Act) under Part 3A of that Act to carry out a project, 45
46
- (c) an approval within the meaning of Part 5 of that Act or the modification of such an approval, 47
48

- (d) an approval of State significant infrastructure under Part 5.1 of that Act or the modification of such an approval. 1
2
- 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. 3
4
- 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. 5
6
7
- protected land*** has the meaning given by section 4. 8
- relevant criteria***—see section 22. 9
- Secretary*** means the Secretary of the Department. 10
- (2) Notes included in this Act do not form part of this Act. 11

Part 2 Protected land

4 Meaning of “protected land”

In this Act, *protected land* means any of the following:

- (a) land reserved as a national park or state conservation area under the *National Parks and Wildlife Act 1974* and land within 2 kilometres of such land,
- (b) land dedicated as a State forest under the *Forestry Act 2012* and land within 2 kilometres of such land,
- (c) the area of operations of the Sydney Catchment Authority within the meaning of the *Sydney Water Catchment Management Act 1998* and land within 2 kilometres of that area,
- (d) land within any of the following zones under a local environmental plan that adopts the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* and land within 5 kilometres of such land:
 - (i) Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential or another residential zone (however described),
 - (ii) Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre or another business zone (however described),
 - (iii) Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront or another industrial zone (however described),
- (e) land within any of the following zones under a local environmental plan that does not adopt that standard instrument and land within 5 kilometres of such land:
 - (i) a residential zone (however described),
 - (ii) a business zone (however described),
 - (iii) an industrial zone (however described),
- (f) productive agricultural land, being land identified as such under a scientifically-based land classification system declared by the Minister for Primary Industries by notice published in the Gazette, but not including any land of a kind excluded by the regulations, and land within 2 kilometres of such land,
- (g) land within a protected catchment area declared under section 5,
- (h) land that has been declared to be Tier 1 Biodiversity land under section 6 and land within 2 kilometres of such land.

5 Declaration of protected catchment areas

- (1) The Minister administering the *Water Management Act 2000* must, within 3 months after the date of assent to this Act, recommend to the Governor the making of regulations declaring areas to be protected catchment areas.
- (2) A protected catchment area declared under this section must not be reduced in size, and a regulation declaring an area of land to be a protected catchment area must not be repealed, unless authorised by an Act of Parliament.

6 Declaration of Tier 1 Biodiversity land	1
The Minister administering the <i>Threatened Species Conservation Act 1995</i> may, by notice published in the Gazette, declare land to be Tier 1 Biodiversity after taking into account the following:	2 3 4
(a) the need for the protection of vegetation in threatened and over-cleared landscapes,	5 6
(b) the need for the protection of poorly reserved and severely depleted landscapes,	7 8
(c) the need for the protection of source habitats for native fauna,	9
(d) the need for the protection of critical landscape corridors and landscape connectivity.	10 11
7 Inventory of protected land	12
(1) The Secretary is to maintain an inventory of protected land.	13
(2) The inventory is to contain maps that enable protected land to be identified and must be made available for public inspection on the Department's website.	14 15
8 Disputes in relation to protected land	16
If any dispute arises as to whether or not any particular land is protected land, 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).	17 18 19 20

Part 3	Prohibition on new or renewed prospecting for and mining of minerals or petroleum on protected land	1 2
9	Prohibition on granting of mining authorisations relating to protected land	3
	The Minister administering the <i>Mining Act 1992</i> , and the Secretary, must not grant any mining authorisation in relation to protected land.	4 5
10	Prohibition on renewal of mining authorisations relating to protected land	6
	The Minister administering the <i>Mining Act 1992</i> , and the Secretary, must not renew any mining authorisation in relation to protected land.	7 8
11	Prohibition on granting of petroleum titles relating to protected land	9
	The Minister administering the <i>Petroleum (Onshore) Act 1991</i> must not grant any petroleum title in relation to protected land.	10 11
12	Prohibition on renewal of petroleum titles relating to protected land	12
	The Minister administering the <i>Petroleum (Onshore) Act 1991</i> must not renew any petroleum title in relation to protected land.	13 14

Part 4	Restrictions on mining and prospecting operations on protected land and certain other land	1 2
13	Regard must be had to gateway certificate before giving planning approval in relation to protected land	3 4
(1)	Planning approval cannot be given or granted under the <i>Environmental Planning and Assessment Act 1979</i> for development for any of the following purposes unless a gateway certificate has been issued in relation to the development and the person or authority responsible for giving or granting the approval has had regard to the gateway certificate:	5 6 7 8 9
(a)	prospecting for any mineral on, over or beneath the surface of protected land,	10
(b)	mining for any mineral on, over or beneath the surface of protected land,	11
(c)	petroleum prospecting operations on, over or beneath the surface of protected land,	12 13
(d)	petroleum mining operations on, over or beneath the surface of protected land.	14
(2)	Any planning approval that is given or granted in contravention of this section after the commencement of this Act has no effect.	15 16
14	Prohibition on prospecting and mining that interferes with highly productive aquifers	17
(1)	A person must not prospect for or mine any mineral, or conduct any petroleum prospecting operations or petroleum mining operations, in a way that:	18 19
(a)	penetrates a highly productive aquifer, or	20
(b)	interferes with water in a highly productive aquifer, or	21
(c)	obstructs the flow of water in a highly productive aquifer, or	22
(d)	takes water from a highly productive aquifer in the course of carrying out that prospecting or mining, or	23 24
(e)	disposes of water taken from a highly productive aquifer in the course of carrying out that prospecting or mining.	25 26
	Maximum penalty: 50 penalty units.	27
(2)	This section applies whether or not the person holds:	28
(a)	any mining authorisation, or	29
(b)	any petroleum title, or	30
(c)	any aquifer interference approval under the <i>Water Management Act 2000</i> .	31
(3)	In this section:	32
	highly productive aquifer means a geological structure or formation, or an artificial landfill:	33 34
(a)	that is permeated with water or is capable of being permeated with water, and	35
(b)	that is known to be highly productive or whose geology suggests abundant potential water supply, and	36 37
(c)	that has been declared by the Minister administering the <i>Water Management Act 2000</i> to be a highly productive aquifer by notice published in the <i>Gazette</i> .	38 39
15	Prohibition on certain provisions of environmental planning instruments	40
	An environmental planning instrument cannot permit (whether with or without development consent) the carrying out of prospecting for or mining of any mineral, or the conduct of any petroleum prospecting operations or petroleum mining operations, on, over or beneath the surface of protected land.	41 42 43 44

16	Operation of certain environmental planning instruments that permit prospecting or mining	1 2
(1)	Any provision of an environmental planning instrument made before the commencement of this section that permits (whether with or without development consent) any of the following in a manner that is inconsistent with a local environmental plan required to be made by Part 7 ceases to have effect in relation to protected land on the commencement of this section:	3 4 5 6 7
(a)	prospecting for any mineral on, over or beneath the surface of protected land,	8
(b)	mining for any mineral on, over or beneath the surface of protected land,	9
(c)	petroleum prospecting operations on, over or beneath the surface of protected land,	10 11
(d)	petroleum mining operations on, over or beneath the surface of protected land.	12
(2)	In this section, a reference to an environmental planning instrument includes, but is not limited to, <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i> .	13 14 15

Part 5 Gateway certificates	1
17 Constitution of Mining and Petroleum Gateway Panel	2
(1) The Minister is to establish a Mining and Petroleum Gateway Panel.	3
(2) The Gateway Panel is to consist of the following persons appointed by the Governor:	4
(a) a person nominated by the Minister, being a person who the Minister is satisfied has appropriate expertise in geology and geotechnical engineering,	5 6
(b) a person nominated by the Minister for the Environment, being a person who that Minister is satisfied has appropriate expertise in ecology and natural resource management,	7 8 9
(c) a person nominated by the Minister for the Environment, being a person who that Minister is satisfied has appropriate expertise in the impact of climate change,	10 11 12
(d) a person nominated by the Minister for Natural Resources, Lands and Water, being a person who that Minister is satisfied has appropriate expertise in hydrology and water management,	13 14 15
(e) a person nominated by the Minister for Primary Industries, being a person who that Minister is satisfied has appropriate expertise in agriculture,	16 17
(f) a person nominated by the Minister for Aboriginal Affairs, being a person who that Minister is satisfied has appropriate expertise in the identification and preservation of Aboriginal cultural heritage,	18 19 20
(g) a person nominated by the Minister for Resources and Energy, being a person who that Minister is satisfied has appropriate expertise in mining and petroleum activities.	21 22 23
(3) A person is ineligible to be appointed to, or hold office as a member of, the Gateway Panel if the person has entered into any contract or arrangement with a person who holds a mining authorisation or petroleum title, or with a person who is responsible for the carrying out of an authorised mining or petroleum activity.	24 25 26 27
(4) A member of the Gateway Panel vacates office if the member enters into any contract or arrangement with a person who holds a mining authorisation or petroleum title or with a person who is responsible for the carrying out of an authorised mining or petroleum activity.	28 29 30 31
(5) A member of the Gateway Panel:	32
(a) holds office for 3 years, and	33
(b) is entitled to such remuneration, if any, and to the payment of such expenses, if any, as are determined by the Minister.	34 35
(6) The procedure at meetings of the Gateway Panel is to be determined by the Panel.	36
(7) The quorum at a meeting of the Gateway Panel is a majority of the members.	37
18 Function of Gateway Panel	38
The function of the Gateway Panel is to consider applications for gateway certificates.	39 40
19 Gateway Panel not subject to Ministerial direction	41
The Gateway Panel is not subject to the direction or control of the Minister, except to the extent specifically provided for in this Act.	42 43

20	Declaration of critical industry cluster land	1
(1)	The Minister administering the <i>Agricultural Industry Services Act 1998</i> and the Minister administering the <i>Destination NSW Act 2011</i> are to develop and implement a process for accepting applications from persons for land to be declared to be critical industry cluster land.	2 3 4 5
(2)	The Minister administering the <i>Agricultural Industry Services Act 1998</i> or the Minister administering the <i>Destination NSW Act 2011</i> may, by notice published in the Gazette, declare land to be critical industry cluster land, after taking into account the following:	6 7 8 9
(a)	whether there is a concentration of enterprises on the land that provides development and marketing advantages,	10 11
(b)	whether the productive industries located on the land are interrelated,	12
(c)	whether the land consists of a unique combination of factors such as location, infrastructure, heritage and natural resources,	13 14
(d)	whether the land is of national or international importance (or both),	15
(e)	whether the land use involves an iconic industry that contributes to the region's identity,	16 17
(f)	whether the land is potentially substantially impacted by coal seam gas or other mining or prospecting proposals.	18 19
21	Applications for gateway certificates	20
(1)	An application for a gateway certificate in respect of proposed development for any of the following purposes must be made to the Gateway Panel:	21 22
(a)	prospecting for any mineral on, over or beneath the surface of protected land,	23
(b)	mining for any mineral on, over or beneath the surface of protected land,	24
(c)	petroleum prospecting operations on, over or beneath the surface of protected land,	25 26
(d)	petroleum mining operations on, over or beneath the surface of protected land.	27
(2)	An application may be made only by the person who proposes to carry out the proposed development.	28 29
(3)	The application may be made only if notice of the application is given:	30
(a)	by advertisement published in a newspaper circulating in the area in which the development is to be carried out no later than 60 days before the application is made, and	31 32 33
(b)	by written notice to the owners and occupants of land within 5 kilometres of the proposed development no later than 60 days before the application is made, and	34 35 36
(c)	if the applicant is not the owner of the land concerned—by written notice to the owner of the land no later than 60 days before the application is made.	37 38
(4)	An application must be in writing in the form (if any) approved by the Gateway Panel from time to time and must include the following information:	39 40
(a)	the name and address of the applicant,	41
(b)	the address, and particulars of title, of the subject land,	42
(c)	a description of the proposed development that involves an authorised mining or petroleum activity,	43 44
(d)	whether the land is critical industry cluster land.	45

22 Relevant criteria for determining applications

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| (1) The Gateway Panel must determine whether development that is the subject of an application for a gateway certificate meets the following criteria (the <i>relevant criteria</i>): | 2
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| (a) in relation to agricultural land—that the proposed development will not significantly reduce the agricultural productivity of any agricultural land, based on a consideration of the following: | 5
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7 |
| (i) any impact on the land through surface area disturbance and subsidence, | 8 |
| (ii) any reduced access to, or any impact on, water resources, | 9 |
| (iii) any impact on soil fertility, effective rooting depth or soil drainage, | 10 |
| (iv) any increase in land surface micro-relief, soil salinity, rock outcrop, slope and surface rockiness or any significant changes to soil acidity or alkalinity, | 11
12
13 |
| (v) any fragmentation of agricultural land uses, | 14 |
| (vi) any reduction in the area of biophysical strategic agricultural land, | 15 |
| (b) in relation to critical industry cluster land—that the proposed development will not have a significant impact on critical industry cluster land based on a consideration of the following: | 16
17
18 |
| (i) any impact on the land through surface area disturbance and subsidence, | 19 |
| (ii) any reduced access to, or any impact on, water resources and agricultural resources, | 20
21 |
| (iii) any reduced access to, or any impact on, support services and infrastructure, | 22
23 |
| (iv) any reduced access to transport routes, | 24 |
| (v) any loss of scenic, cultural and landscape values, | 25 |
| (vi) any significant fragmentation of the critical industry cluster land, | 26 |
| (c) in relation to water resources—that the proposed development will not have a significant impact on a water resource based on a consideration of the following: | 27
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29 |
| (i) any impact on the hydrology of a water resource, | 30 |
| (ii) any impact on the water quality of a water resource, | 31 |
| (iii) any reduction, or material risk of a reduction, in the current or future utility of the water resource for third-party users, including environmental and other public benefit outcomes, | 32
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34 |
| (iv) any significant impact on an aquifer through the penetration of an aquifer, the interference with water in an aquifer or the obstruction of the flow of water in an aquifer, | 35
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37 |
| (d) in relation to ecological communities—that the proposed development will not have a significant impact on a species, population or ecological community listed under the <i>Threatened Species Conservation Act 1995</i> as critically endangered, endangered or vulnerable based on a consideration of the following: | 38
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42 |
| (i) any reduced access to, or impact on, water resources, | 43 |
| (ii) any significant change in community structure, | 44 |
| (iii) any significant change in species composition, | 45 |
| (iv) any significant disruption of ecological processes, | 46 |
| (v) any significant invasion and establishment of exotic species, | 47 |
| (vi) any significant habitat degradation or fragmentation, | 48 |

- (e) that the proposed development will not make a significant contribution to climate change based on a consideration of the following:
 - (i) the total greenhouse gas emissions directly attributable to the development,
 - (ii) the life cycle greenhouse gas emissions associated with the processing, transport and primary use, including combustion, of any mined mineral or petroleum,
 - (iii) any reduction in greenhouse gas emissions made elsewhere to offset the emissions attributable to matters in subparagraphs (i) and (ii),
 - (f) that the proposed development will not have a significant impact on Aboriginal cultural heritage based on a consideration of the following:
 - (i) any impact on places, objects and features (including biological diversity) of significance to Aboriginal people,
 - (ii) any impact on the remains of the bodies of deceased Aboriginal persons (other than those remains buried in a cemetery in which non-Aboriginal persons are also buried),
 - (iii) any impact on any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction,
 - (iv) any impact on any area associated with a person, event or historical theme, or containing a building, place, object, feature or landscape of natural or cultural significance to Aboriginal people or of importance in improving public understanding of Aboriginal culture and its development and transitions.
- (2) In this section:
- agricultural land*** means any of the following:
- (a) land that has been sown with not less than 2 crops of an annual species during the period of 10 years immediately preceding the date on which the application for a gateway certificate was made,
 - (b) land that has been sown with 1 crop of an annual species during the period of 10 years immediately preceding the date on which the application for a gateway certificate was made if the Secretary is satisfied that:
 - (i) having regard to the date on which the land was brought under cultivation, it would not be reasonable to expect more than one such crop to have been sown, and
 - (ii) there was a sufficient reason for not having brought the land under cultivation at an earlier date,
 - (c) land on which:
 - (i) at the date on which the application for a gateway certificate is made, shade, shelter or windbreak trees are growing, or
 - (ii) at any time during the period of 10 years immediately preceding that date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Secretary have or has been growing,
 - (d) pastures:
 - (i) that are sown with seed of a species and at a rate of application, or treated with fertiliser of a composition and at a rate of application, satisfactory to the Secretary, and

(ii)	that have, as a result of that sowing or treatment, maintained a level of pasture production that is substantially above that which might be expected of natural pastures,	1 2 3
(e)	land that is used, to an extent acceptable to the Secretary, for the production of grass seed, pasture legume seed, hay or silage,	4 5
(f)	land that has a preponderance of improved species of pasture grasses.	6
23	Determination of applications	7
(1)	The Gateway Panel must determine whether development that is the subject of an application for a gateway certificate meets the relevant criteria.	8 9
(2)	In forming an opinion as to whether proposed development meets the relevant criteria, the Gateway Panel is to have regard to:	10 11
(a)	whether or not there is a real or not remote chance or possibility that an impact referred to in section 22 will directly or indirectly occur as a result, and	12 13
(b)	the duration, extent and intensity of any impact referred to in section 22, and	14
(c)	any proposed avoidance, mitigation, offset or rehabilitation measures in respect of any such impact, and	15 16
(d)	the cumulative impact of the proposed development in addition to existing development.	17 18
(3)	If the Gateway Panel determines that development that is the subject of an application for a gateway certificate does meet the relevant criteria the Panel must issue a gateway certificate in accordance with this Part.	19 20 21
(4)	A gateway certificate must state that the Gateway Panel is of the opinion that the proposed development meets the relevant criteria.	22 23
(5)	If the Gateway Panel determines that development that is the subject of an application does not meet the relevant criteria then the Panel must refuse to issue a gateway certificate.	24 25 26
(6)	The Gateway Panel may, in refusing an application:	27
(a)	include recommendations to address the failure of the proposed development to meet the relevant criteria, and	28 29
(b)	include recommendations that specified studies or further studies be undertaken by the applicant regarding the proposed development.	30 31
(7)	If the Gateway Panel determines that development that is the subject of an application does not meet the relevant criteria:	32 33
(a)	the applicant may resubmit a modified application within 6 months of that determination, and	34 35
(b)	if the modified application is refused, a new application must be made if a gateway certificate is still required.	36 37
24	Time for determination of applications	38
(1)	The Gateway Panel must determine an application for a gateway certificate within 180 days of the application being made.	39 40
(2)	If the Gateway Panel does not determine an application before the expiry of that period, the Secretary is, by order in writing, to direct the Panel to make a determination in respect of the proposed development within 30 days of the direction or within such longer period as is specified in the direction.	41 42 43 44

(3)	If the Gateway Panel does not issue a gateway certificate within the period required by such a direction, the Panel must, immediately after the expiry of that period, issue a gateway certificate in respect of the proposed development.	1 2 3
25	Gateway Panel may request further information before determining application	4
(1)	The Gateway Panel may request that the applicant for a gateway certificate provide the Panel with further information. No more than one such request may be made in respect of an application.	5 6 7
(2)	The applicant must provide that information within 30 days of the request being notified to the applicant.	8 9
(3)	During the period beginning on the notification of the request and ending on the provision of the relevant information or the expiry of the 30-day period (whichever occurs first), time ceases to run for the purpose of calculating the time periods referred to in section 24.	10 11 12 13
(4)	If an applicant fails to provide the Gateway Panel with the requested information within the 30-day period, the Panel must refuse the application for a gateway certificate.	14 15 16
(5)	For the avoidance of doubt, the Gateway Panel:	17
(a)	may not make a request under this section after the expiry of the 180-day period referred to in section 24, and	18 19
(b)	may, in determining an application, have regard to any requested information provided after the expiry of the 30-day period referred to in subsection (2).	20 21
26	Duration of gateway certificates	22
	A gateway certificate remains current for a period of 5 years (or such shorter period as is specified in the certificate) after the date on which it is issued by the Gateway Panel.	23 24 25
27	Notification of gateway certificates	26
(1)	The Gateway Panel must:	27
(a)	notify the applicant in writing of its determination of the application, and	28
(b)	if it issues a gateway certificate, give a copy of the gateway certificate to the applicant.	29 30
(2)	The Gateway Panel must give a copy of the following documents to the Secretary and must cause any such copy to be published on the Gateway Panel's website (or, if there is no such website, the Department's website):	31 32 33
(a)	each application for a gateway certificate,	34
(b)	the determination made in relation to each application,	35
(c)	any written advice received by the Gateway Panel,	36
(d)	each gateway certificate issued by the Gateway Panel.	37

Part 6	Independent Mining and Petroleum Authority	1
28	Independent Mining and Petroleum Authority	2
(1)	There is established by this Act an Independent Mining and Petroleum Authority.	3
(2)	The Independent Authority is to consist of such members as the Secretary determines from time to time.	4 5
(3)	The Independent Authority is to determine its own procedures, subject to any direction of the Secretary.	6 7
(4)	The Independent Authority is not subject to the direction or control of the Secretary or the Minister in the exercise of its functions, except in relation to the exercise of a function required by the Minister under section 29 (1) (h).	8 9 10
29	Functions of Independent Authority	11
(1)	The functions of the Independent Authority are as follows:	12
(a)	to act as an independent and accountable body to ensure that all authorised mining or petroleum activities comply with any legislative and regulatory requirements,	13 14 15
(b)	to co-ordinate the activities of all public authorities in respect of those requirements,	16 17
(c)	to establish and maintain a register of authorised mining or petroleum activities, and any conditions to which their authorisation is subject, and to make that register publicly available,	18 19 20
(d)	to investigate and report on alleged non-compliance with mining and petroleum legislation for the purposes of prosecutions or other regulatory action,	21 22 23
(e)	to review the regulatory framework for mining and petroleum operations and advise on its effectiveness in the public interest,	24 25
(f)	to educate public authorities, public officials and mining companies about their responsibilities with regard to authorised mining or petroleum activities,	26 27
(g)	to manage, and proactively release to the public, all data collected according to legislative and regulatory requirements associated with water management, petroleum extraction and mining,	28 29 30
(h)	any other functions required by the Minister.	31
(2)	The Independent Authority has the following functions in respect of each application for the grant or renewal of an exploration licence under the <i>Mining Act 1992</i> :	32 33
(a)	to conduct a triple bottom line assessment of the environmental, social and economic aspects of the application,	34 35
(b)	to make an assessment of the likelihood that, if the application is successful, the applicant will subsequently be granted a mining lease under the <i>Mining Act 1992</i> over the land concerned,	36 37 38
(c)	to make an assessment of the financial capacity of the applicant to fund the activities to be conducted under the exploration licence and any such mining lease likely to be granted to the applicant over the land concerned,	39 40 41
(d)	to make an assessment of the application against a set of strategic objectives, priorities and outcomes for the allocation of the State's mineral resources, as determined by the Minister.	42 43 44

- (3) The Independent Authority has the following functions in respect of each application for the grant or renewal of an exploration licence or assessment lease under the *Petroleum (Onshore) Act 1991*: 1
2
3
- (a) to conduct a triple bottom line assessment of the environmental, social and economic aspects of the application, 4
5
 - (b) to make an assessment of the likelihood that, if the application is successful, the applicant will subsequently be granted a production lease under the *Petroleum (Onshore) Act 1991* over the land concerned, 6
7
8
 - (c) to make an assessment of the financial capacity of the applicant to fund the activities to be conducted under the exploration licence or assessment lease and any such production lease likely to be granted to the applicant over the land concerned, 9
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 - (d) to make an assessment of the application against a set of strategic objectives, priorities and outcomes for the allocation of the State's petroleum resources, as determined by the Minister. 13
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- (4) The Independent Authority may: 16
- (a) formulate and promote plans for authorised mining or petroleum activities, and 17
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 - (b) publish reports and information on any aspect of authorised mining or petroleum activities, and 19
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 - (c) carry out or commission research into authorised mining or petroleum activities, and 21
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 - (d) co-ordinate the collection of information on authorised mining or petroleum activities that is published or supplied by public or other authorities, and 23
24
 - (e) provide or promote the development of specialist guidance and technical advisory services relating to authorised mining or petroleum activities, and 25
26
 - (f) invite and consider public submissions on authorised mining or petroleum activities, and 27
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 - (g) make any register of particulars of any authorised mining or petroleum activities in force available for public inspection and provide (on payment of any reasonable fee determined by the Independent Authority) copies of or extracts from any such register. 29
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- (5) The Secretary may recover the costs associated with any investigation or report under subsection (1) (d), or any assessment under subsection (2) or (3), as a debt due from the applicant for the relevant exploration involved. 33
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- 30 Power to obtain information** 36
- (1) For the purposes of an investigation, the Independent Authority may, by notice in writing served on a public authority or public official, require the authority or official to produce a statement of information. 37
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 - (2) A notice under this section must specify or describe the information concerned, must fix a time and date for compliance and must specify the person (being a member or officer of the Independent Authority) to whom the production is to be made. 40
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 - (3) The notice may provide that the requirement may be satisfied by some other person acting on behalf of the public authority or public official and may, but need not, specify the person or class of persons who may so act. 43
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31	Power to obtain documents etc	1
(1)	For the purposes of an investigation, the Independent Authority may, by notice in writing served on a person (whether or not a public authority or public official), require the person:	2
		3
		4
(a)	to attend, at a time and place specified in the notice, before a person (being an officer of the Independent Authority) specified in the notice, and	5
		6
(b)	to produce at that time and place, to the person so specified, a document or other thing specified in the notice.	7
		8
(2)	The notice may provide that the requirement may be satisfied by some other person acting on behalf of the person on whom it was imposed and may, but need not, specify the person or class of persons who may so act.	9
		10
		11
(3)	A person must comply with any notice served on the person under this section.	12
	Maximum penalty: 20 penalty units.	13
32	Reports of Independent Authority	14
	The Independent Authority is to report to the Minister on the results of any assessment by the Independent Authority under section 29 (2) or (3) in respect of an application for the grant or renewal of an exploration licence under the <i>Mining Act 1992</i> , or an exploration licence or assessment lease under the <i>Petroleum (Onshore) Act 1991</i> , and the report is to be publicly released before the application is determined.	15
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Part 7	Community vetoing of prospecting and mining	1
33	Local council may request making of local environmental plan	2
	A local council may, by resolution, request the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> to make a local environmental plan that prohibits any or all of the following on land within the local government area of the council or any specified part of that land:	3
		4
		5
		6
	(a) any or all prospecting for any mineral,	7
	(b) any or all mining for any mineral,	8
	(c) any or all petroleum prospecting operations,	9
	(d) any or all petroleum mining operations.	10
34	Minister must make local environmental plan	11
	If a local council makes a request under this Part, the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> must make a local environmental plan that gives effect to the resolution.	12
		13
		14
35	Certain local environmental plans prevail over other environmental planning instruments	15
		16
(1)	If a local environmental plan made in accordance with this Part is inconsistent with any other environmental planning instrument, whether made before or after the local environmental plan, the local environmental plan made in accordance with this Part prevails to the extent of the inconsistency.	17
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(2)	In this section, a reference to an environmental planning instrument includes, but is not limited to, <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i> .	21
		22
		23
36	Certain environmental planning instruments of no effect	24
	A provision of an environmental planning instrument (whether a local environmental plan or a State environmental planning policy) that is inconsistent with a local environmental plan made under this Part has no effect.	25
		26
		27

Part 8	Miscellaneous	1
37	Regulations	2
	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.	3 4 5 6
38	Savings and transitional regulations	7
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	8 9
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	10 11
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	12 13 14
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	15 16 17
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	18 19 20
39	Nature of proceedings for offences	21
	Proceedings for an offence under this Act may be dealt with summarily before the Local Court.	22 23
40	Delegation	24
	The Secretary may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to:	25 26
(a)	any member of staff of the Department, or	27
(b)	any person, or any class of persons, authorised for the purposes of this section by the regulations.	28 29

Schedule 1	Amendment of Mining Act 1992 No 29	1
[1] Section 32F Access arrangement required for prospecting operations under low-impact licences		2 3
Omit “, or that is determined for them by an arbitrator in accordance with that Division” from section 32F (2) (a).		4 5
[2] Section 139 Arbitration Panel		6
Omit the section.		7
[3] Section 140 Prospecting to be carried out with consent and in accordance with access arrangement		8 9
Omit section 140 (1). Insert instead:		10
(1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.		11 12 13
(1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.		14 15 16 17
[4] Section 140 (2)		18
Omit “or determined”.		19
[5] Section 141 Matters for which access arrangement to provide		20
Omit section 141 (2) and (2A).		21
[6] Section 141 (2B)		22
Insert before section 141 (3):		23
(2B) The overall principles to be observed by the holder of a prospecting title in negotiating an access arrangement are:		24 25
(a) that the landholder should not be in an overall worse position financially as a consequence of the holder of the prospecting title exercising the holder’s rights under this Act, and		26 27 28
(b) that the landholder’s land should not be in an overall worse condition environmentally as a consequence of the holder of the prospecting title exercising the holder’s rights under this Act.		29 30 31
[7] Section 141 (4)		32
Omit the subsection. Insert instead:		33
(4) If the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.		34 35 36 37

[8] Section 141A	1
Insert after section 141:	2
141A Legal costs	3
The holder of the prospecting title must pay the legal costs of the landholder incurred in connection with the holder of the prospecting title seeking access to land, including, but not limited to, the negotiation and making of an access arrangement.	4 5 6 7
[9] Section 142 Holder of prospecting title to seek access arrangement	8
Omit section 142 (4).	9
[10] Sections 143–156 and 276 (3) (a) and (5) (b)	10
Omit the sections and paragraphs.	11
[11] Section 157 Variation of access arrangements	12
Omit section 157 (2). Insert instead:	13
(2) An access arrangement may also be varied by the agreement of the parties to the arrangement.	14 15
[12] Section 158 Change in landholders	16
Omit “or determined” wherever occurring in section 158 (2), (3), (4) and (6).	17
[13] Section 158 (5)	18
Omit the subsection. Insert instead:	19
(5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title concerned in accordance with this Division.	20 21 22 23 24
[14] Section 291 Payment of royalty	25
Insert after section 291 (2):	26
Note. The <i>Taxation Administration Act 1996</i> makes provision for the payment of interest and penalty tax in respect of certain tax defaults.	27 28
[15] Section 293 Jurisdiction of Land and Environment Court	29
Omit “an arbitrator’s determination under Division 2 of Part 8 or of” from section 293 (1) (u).	30 31
[16] Section 364 Minister or officer not to be interested in authority, mineral claim or opal prospecting licence	32 33
Omit section 364 (1). Insert instead:	34
(1) A person must not, while holding office in an official capacity for the purposes of this Act and while exercising functions in that capacity, hold either directly or indirectly a beneficial interest in an authority, a mineral claim or an opal prospecting licence.	35 36 37 38
Maximum penalty: 10,000 penalty units or imprisonment for 5 years, or both.	39

(1A)	The following are persons who hold office in an <i>official capacity</i> for the purposes of this Act:	1
		2
(a)	the Minister,	3
(b)	an inspector,	4
(c)	a member of staff of the Department who exercises functions under this Act or the <i>Petroleum (Onshore) Act 1991</i> ,	5
		6
(d)	any other person who exercises any judicial or official functions under this Act or the <i>Petroleum (Onshore) Act 1991</i> .	7
		8
[17]	Section 380A	9
	Omit the section. Insert instead:	10
380A	Public interest relevant ground for making certain decisions about mining rights	11
		12
(1)	In this section, <i>mining right</i> means an exploration licence, an assessment lease, a mining lease, a mineral claim or an opal prospecting licence.	13
		14
(2)	The public interest is a ground (in addition to any other available ground) on which any of the following decisions may be made under this Act:	15
		16
(a)	a decision to refuse to grant, renew or transfer a mining right,	17
(b)	a decision to refuse a tender for a mining right,	18
(c)	a decision to cancel a mining right or to suspend operations under a mining right (in whole or in part),	19
		20
(d)	a decision to restrict operations under a mining right by the imposition or variation of conditions of a mining right.	21
		22
(3)	To avoid doubt, sections 127 (1) and 205 (1) extend to the cancellation of a mining right under this section.	23
		24
(4)	This section has effect despite anything to the contrary in this Act.	25
(5)	This section applies to any decision made after the commencement of this section, including:	26
		27
(a)	a decision with respect to an application or other matter that was pending on that commencement, and	28
		29
(b)	a decision that is based on conduct that occurred, or on a matter that arose, before that commencement.	30
		31
[18]	Section 383B Consent of landholders and others	32
	Omit “or determined by an arbitrator as referred to in section 140 (1) (b)” from section 383B (1) (c).	33
		34
[19]	Section 383C General immunity of landholders	35
	Insert at the end of section 383C (1) (b):	36
	or	37
(c)	by or under any other Act, in connection with a power or right exercised under this Act or an authority under this Act,	38
		39
[20]	Schedule 4 Regulation making powers	40
	Omit clause 10.	41

[21] Schedule 6 Savings, transitional and other provisions	1
Insert at the end of the Schedule with appropriate Part and clause numbering:	2
Part Provisions consequent on enactment of Responsible Mining (Protecting Land, Water and Communities) Act 2014	3
	4
	5
Definition	6
In this Part:	7
<i>amending Act</i> means the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> .	8
	9
Application of amendments to existing access arrangements determined by arbitrator	10
	11
The amendments made by the amending Act to the provisions of this Act relating to the negotiation of access arrangements do not apply to prospecting operations in relation to which:	12
	13
	14
(a) an access arrangement determined by an arbitrator was in force immediately before the commencement of the amending Act, or	15
	16
(b) an arbitrator had been appointed (by agreement or in default of an agreement) and had begun to conduct a hearing but in relation to which no final determination had been made by the arbitrator before the commencement of the amending Act.	17
	18
	19
	20
Legal costs of access arrangements	21
	22
Section 141A, as inserted by the amending Act, does not apply in respect of legal costs relating to an access arrangement for which notice was given under section 142 before the commencement of that amendment. Section 141 (2A), as in force before that commencement, continues to apply to such an arrangement.	23
	24
	25
	26
[22] Schedule 7 Offences	27
Insert “or 364” after “section 291” in Part 2.	28
[23] Dictionary	29
Omit the definitions of <i>Arbitration Panel</i> , <i>arbitrator</i> and <i>party</i> .	30

Schedule 2	Amendment of Petroleum (Onshore) Act 1991	1
	No 84	2
[1] Section 3 Definitions		3
Insert in alphabetical order in section 3 (1):		4
<i>rehabilitation</i> means the treatment or management of land, or of water, that may have been damaged or adversely affected by activities under a petroleum title, so that it is returned to its original condition or to an improved condition, including (but not limited to) the following:		5
(a) the levelling, regrassing, reforesting or contouring of any part of the land the subject of the title,		6
(b) the filling in or sealing of excavation and drill holes.		7
[2] Section 24 Suspension of non-environmental conditions of petroleum title		8
Insert after section 24 (1):		9
(1A) However, a condition may not be suspended if it is a condition:		10
(a) identified in the title, in any approval given under the title or in any notice of the imposition or variation of the condition given to the holder of the petroleum title as a condition relating to environmental management, or		11
(b) relating to the conservation or protection of flora, fauna, fish, fisheries or scenic attractions or otherwise to the conservation or protection of the environment, or		12
(c) relating to the rehabilitation of any land or water.		13
[3] Section 45F Access arrangement required for prospecting operations under low-impact prospecting titles		14
Omit “, or that is determined for them by an arbitrator in accordance with that Part” from section 45F (2) (a).		15
[4] Part 4A, heading		16
Insert “and production leases” after “titles”.		17
[5] Section 69A Application of Part		18
Insert “and to the carrying out of petroleum mining operations under production leases” after “titles)” in section 69A (1).		19
[6] Section 69B Arbitration Panel		20
Omit the section.		21
[7] Section 69C Prospecting to be carried out with consent and in accordance with access arrangement		22
Omit section 69C (1). Insert instead:		23
(1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.		24
(1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.		25

[8]	Section 69C (2)	1
	Omit “or determined”.	2
[9]	Section 69CA	3
	Insert after section 69C:	4
69CA	Petroleum mining operations to be carried out in accordance with access arrangement	5 6
	(1) The holder of a production lease must not carry out petroleum mining operations on any land except in accordance with an access arrangement or arrangements applying to the land agreed (in writing) between the holder of the production lease and each landholder of the land.	7 8 9 10
	(2) Separate access arrangements may (but need not) be agreed with different landholders of the same area of land, for different areas of the same landholding or with respect to the different matters to which access arrangements relate.	11 12 13 14
	(3) Separate access arrangements may be made to preserve the confidentiality of provisions of the arrangements, to deal with persons becoming landholders at different times or for any other reason.	15 16 17
[10]	Sections 69D (1) (a), (e), (f) and (i), (3) (b) and (5), 69E (1), (3) and (5), 69EA (1), (3) and (4) and 69U (4)	18 19
	Insert “or production lease” after “title” wherever occurring.	20
[11]	Section 69D (1) (b)	21
	Insert “, or the holder of a production lease may carry out petroleum mining operations,” after “prospect”.	22 23
[12]	Section 69D (1) (d)	24
	Insert “or by the holder of a production lease when carrying out petroleum mining operations” after “land”.	25 26
[13]	Section 69D (1) (e) and (f)	27
	Insert “or petroleum mining operations” after “operations” wherever occurring.	28
[14]	Section 69D (2) and (2A)	29
	Omit the subsections.	30
[15]	Section 69D (2B)	31
	Insert before section 69D (3):	32
	(2B) The overall principles to be observed by the holder of a prospecting title or production lease in negotiating an access arrangement must be that:	33 34
	(a) the landholder should not be in an overall worse position financially as a consequence of the holder of the prospecting title or production lease exercising the holder’s rights under this Act, and	35 36 37
	(b) the landholder’s land should not be in an overall worse condition environmentally as a consequence of the holder of the prospecting title or production lease exercising the holder’s rights under this Act.	38 39 40

[16] Section 69D (4)	1
Omit the subsection. Insert instead:	2
(4) If the holder of a prospecting title or production lease contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.	3 4 5 6
[17] Section 69DA	7
Insert after section 69D:	8
69DA Legal costs	9
The holder of the prospecting title or production lease must pay the legal costs of the landholder incurred in connection with the holder of the prospecting title or production lease seeking access, including, but not limited to, the negotiation and making of an access arrangement.	10 11 12 13
[18] Section 69E Holder of prospecting title to seek access arrangement	14
Omit section 69E (4).	15
[19] Section 69EA Notice to mortgagees of access arrangements	16
Insert “or 69CA” after “section 69C” in the note to the section.	17
[20] Section 69EA, note	18
Insert “or petroleum mining operations” after “operations”.	19
[21] Sections 69F–69S	20
Omit the sections.	21
[22] Section 69T Variation of access arrangements	22
Omit section 69T (2). Insert instead:	23
(2) An access arrangement may also be varied by the agreement of the parties to the arrangement.	24 25
[23] Section 69U Change in landholders	26
Omit “or determined” wherever occurring in section 69U (2), (3), (4) and (6).	27
[24] Section 69U (5)	28
Omit the subsection. Insert instead:	29
(5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title or production lease concerned in accordance with this Part.	30 31 32 33 34
[25] Section 71 Restrictions on rights of holders of leases over agricultural land	35
Omit “which is under cultivation” from section 71 (1).	36
Insert instead “that has been determined to be agricultural land in accordance with this section”.	37 38

[26] Section 71 (2)	1
Omit “cultivated land”. Insert instead “agricultural land”.	2
[27] Section 71 (3)–(5)	3
Omit section 71 (3) and (4). Insert instead:	4
(3) In this section:	5
<i>agricultural land</i> means land:	6
(a) that has been sown with not less than 2 crops of an annual species during the period of 10 years immediately preceding the relevant date, or	7 8
(b) that has been sown with 1 crop of an annual species during the period of 10 years immediately preceding the relevant date if the Director-General is satisfied that:	9 10 11
(i) having regard to the date on which the land was brought under cultivation, it would not be reasonable to expect more than one such crop to have been sown, and	12 13 14
(ii) there was a sufficient reason for not having brought the land under cultivation at an earlier date, or	15 16
(c) on which, at the relevant date, shade, shelter or windbreak trees are growing, or	17 18
(d) on which, at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director-General have or has been growing, or	19 20 21 22
(e) comprising pastures:	23
(i) that are sown with seed of a species and at a rate of application, or treated with fertiliser of a composition and at a rate of application, satisfactory to the Director-General, and	24 25 26
(ii) that have, as a result of that sowing or treatment, maintained a level of pasture production that is substantially above that which might be expected of natural pastures, or	27 28 29
(f) that is used, to an extent acceptable to the Director-General, for the production of grass seed, pasture legume seed, hay or silage, or	30 31
(g) that has a preponderance of improved species of pasture grasses.	32
<i>the relevant date</i> means the date on which the application for the production lease or any renewal of that lease was lodged.	33 34
(4) For the purposes of paragraphs (a) and (b) of the definition of <i>agricultural land</i> in subsection (3), land is not to be treated as having been sown with a crop of an annual species unless, in the opinion of the Land and Environment Court, the crop sown was carried through to a successful use.	35 36 37 38
(5) If the Land and Environment Court is required to decide whether or not any land is agricultural land, nothing in this Act operates so as to prevent the Minister from deciding that a part only of the land is agricultural land.	39 40 41

[28] Part 6, Division 5	1
Insert after Division 4:	2
Division 5 Audits	3
83A Relationship of this Division to other provisions	4
This Division does not affect any other provision of this Act that:	5
(a) enables a petroleum title to be subject to a condition requiring monitoring or reporting, or	6 7
(b) relates to functions exercisable by persons for the purpose of auditing compliance with this Act, the regulations or conditions of petroleum titles.	8 9 10
83B Nature of audit	11
An audit under this Division is a periodic or particular documented evaluation of prospecting or mining for petroleum (including management practices, systems and plant) for any one or more of the following purposes:	12 13 14
(a) to provide information on compliance or otherwise with obligations under the petroleum title or other related legal requirements under this or any other law (including in relation to the protection of the environment from the impacts of, or the rehabilitation of land affected by, activities under the title),	15 16 17 18 19
(b) to provide information on compliance or otherwise with codes of practice or policies relevant to the petroleum title,	20 21
(c) to enable a determination of whether the way activities are being carried out under the petroleum title can be improved in order to protect the environment,	22 23 24
(d) to determine whether the Department has satisfactorily administered this Act, including by monitoring the implementation of this Act and enforcing the conditions of petroleum titles.	25 26 27
83C Accreditation and regulation of auditors	28
The Minister must ensure that, not later than 3 months after the commencement of this section, regulations are made that make provision for or with respect to either or both of the following:	29 30 31
(a) the accreditation of auditors for the purposes of this Division,	32
(b) the carrying out of audits by auditors.	33
83D Conditions for mandatory audits	34
(1) A condition that requires one or more mandatory audits to be undertaken, to the satisfaction of the Director-General, for any one or more of the purposes referred to in section 83B (a <i>mandatory audit condition</i>) must be imposed by the Minister on a petroleum title under section 23.	35 36 37 38
(2) A mandatory audit condition must specify the purpose or purposes of the audit.	39
(3) A mandatory audit condition may require any one or more of the following:	40
(a) appointment of an auditor to undertake the audit,	41
(b) approval by the Director-General of the auditor before being appointed,	42
(c) preparation of particular written documentation during the course of the audit,	43 44

(d)	preparation of an audit report,	1
(e)	production to the Director-General of the audit report.	2
(4)	A mandatory audit condition may also:	3
(a)	specify the format and level of detail required for the audit, or	4
(b)	require the auditor to submit the proposed format and level of detail to the Director-General for approval.	5 6
(5)	A mandatory audit condition may be varied or revoked by written notice served on the holder of the petroleum title.	7 8
(6)	A condition imposed under this section takes effect on the date on which written notice of the condition is served on the holder of the petroleum title or on any later date specified in the notice.	9 10 11
(7)	This section does not affect the operation of the following provisions of the <i>Environmental Planning and Assessment Act 1979</i> :	12 13
(a)	section 89K (Approvals etc legislation that must be applied consistently),	14 15
(b)	section 93 (Granting and modification of approval by approval body),	16
(c)	section 115ZH (Approvals etc legislation that must be applied consistently),	17 18
(d)	section 75V (Approvals etc legislation that must be applied consistently) as continued in force by Schedule 6A to that Act.	19 20
83E	Certification of audit report	21
	The audit report for a mandatory audit is taken not to have been duly produced to the Director-General unless it is accompanied by:	22 23
(a)	a declaration signed by the holder of the petroleum title certifying that the holder has not knowingly provided any false or misleading information to the auditor and has provided all relevant information to the auditor, and	24 25 26 27
(b)	a declaration signed by the auditor:	28
(i)	setting out the auditor's qualifications, and	29
(ii)	certifying that the report is accurate, and that the auditor has not knowingly included any false or misleading information in it or failed to include any relevant information in it.	30 31 32
83F	Offences relating to audit information	33
(1)	A person must not provide information that is false or misleading in a material particular to an auditor in connection with a mandatory audit.	34 35
(2)	The holder of a petroleum title who fails to provide information to an auditor in connection with a mandatory audit being carried out in relation to the petroleum title, knowing the information to be materially relevant to the audit, is guilty of an offence.	36 37 38 39
(3)	An auditor must not include information in an audit report produced to the Director-General that is false or misleading in a material respect.	40 41
(4)	An auditor who fails to provide information in an audit report produced to the Director-General in connection with a mandatory audit, knowing the information to be materially relevant to the audit, is guilty of an offence.	42 43 44

(5)	The holder of a petroleum title who:	1
(a)	fails to retain any written documentation required to be prepared by the holder in connection with a mandatory audit for a period of at least 5 years after the audit report concerned was produced to the Director-General (or such other period as is prescribed by the regulations), or	2 3 4 5 6
(b)	fails to produce during that period any such documentation to the Director-General on request,	7 8
	is guilty of an offence.	9
(6)	The offences under subsections (1) and (3) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.	10 11
	Maximum penalty:	12
(a)	in the case of a corporation—1,000 penalty units, or	13
(b)	in the case of a natural person—500 penalty units.	14
83G	Self-incriminatory information not exempt	15
	Information must be supplied by a person in connection with a mandatory audit, and this Division applies to any such information that is supplied, whether or not the information might incriminate the person.	16 17 18
83H	Use of information	19
(1)	Any information in an audit report or other documentation supplied to the Director-General in connection with a mandatory audit may be supplied by the Director-General to, and taken into consideration by, any person who has functions under this Act, the <i>Environmental Planning and Assessment Act 1979</i> or the environment protection legislation and may be used by that person for the purposes of those laws.	20 21 22 23 24 25
(2)	Without limiting subsection (1):	26
(a)	the Director-General is authorised, despite any other Act or law, to provide a relevant agency with any such information, and	27 28
(b)	any such information is admissible in evidence in any prosecution of the holder of a petroleum title for any offence (whether under this Act or otherwise).	29 30 31
(3)	In this section, relevant agency means the Department, or a public authority engaged in administering or executing the environment protection legislation, the <i>Environmental Planning and Assessment Act 1979</i> or such other legislation, if any, as may be prescribed by the regulations.	32 33 34 35
83I	Mandatory audit of Department's performance	36
	The Independent Mining and Petroleum Authority established under the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> must, at least once every 5 years, appoint an auditor to undertake an audit of whether the Department:	37 38 39 40
(a)	has satisfactorily administered this Act, monitored the implementation of this Act and enforced the conditions of petroleum titles, and	41 42
(b)	has satisfactorily administered the <i>Mining Act 1992</i> , monitored the implementation of that Act and enforced the conditions of authorities (within the meaning of that Act), and	43 44 45

(c)	has satisfactorily administered the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> and monitored the implementation of that Act.	1 2 3
[29]	Section 92	4
	Omit the section. Insert instead:	5
	92 Failure to pay royalty as required	6
(1)	A person who is liable to pay royalty and who fails to pay royalty as required by section 91 is guilty of an offence.	7 8
	Maximum penalty:	9
(a)	in the case of a corporation—10,000 penalty units, and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day that the offence continues, or	10 11 12
(b)	in the case of a natural person—2,000 penalty units or imprisonment for 12 months, or both, and, in the case of a continuing offence, a further penalty of 200 penalty units for each day that the offence continues.	13 14 15
(2)	If an amount of royalty payable to the Minister is not paid by the time that it becomes payable in accordance with section 91, interest is to be added to the amount due at a rate that is 2 percentage points above the cash rate last published by the Reserve Bank of Australia before the royalty became payable.	16 17 18 19 20
[30]	Part 13, Divisions 1 and 2	21
	Insert before section 117:	22
	Division 1 Environmental information	23
116	Application of Division	24
(1)	This Division applies to environmental information obtained by the Director-General in connection with or for the purposes of monitoring, recording or assessing the environmental impacts of prospecting or mining for petroleum, or proposed prospecting or mining for petroleum, or related activities.	25 26 27 28 29
(2)	In this Division, <i>environmental information</i> means environmental information obtained by the Director-General as a result of any of the following:	30 31 32
(a)	an application for a petroleum title,	33
(b)	an audit under this Act,	34
(c)	compliance with a condition of a petroleum title,	35
(d)	compliance with a direction under this Act,	36
(e)	monitoring, an inspection or a survey carried out under this Act.	37
(3)	This Division also applies to environmental information:	38
(a)	obtained by the Minister or the Director-General otherwise in the administration of this Act, or	39 40
(b)	obtained by the Independent Mining and Petroleum Authority in the exercise of its functions under the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> .	41 42 43

(4)	Accordingly, in this Division, <i>environmental information</i> also includes detailed particulars of the following:	1 2
(a)	all applications for suspension of conditions of a petroleum title,	3
(b)	all notice of the suspension of conditions of a petroleum title,	4
(c)	all land access arrangements where the landholder is the Crown and where mandatory provisions of a land access code have been excluded or varied.	5 6 7
(5)	This Division does not apply to information relating to the value of petroleum recovered or other financial information or to any protected document.	8 9
(6)	The restrictions on disclosure of information in Division 2 do not apply to information to which this Division applies.	10 11
(7)	The regulations may prescribe information as environmental information for the purposes of this Division and may exclude information as environmental information for those purposes.	12 13 14
116A	Release of environmental information	15
(1)	The Director-General must publish on the website of the Department, or in any other manner the Director-General thinks fit, environmental information to which this Division applies.	16 17 18
(2)	Subsection (1) does not apply in respect of anything done by a landholder or any other person in relation to a person prospecting on the landholder's land if there is no access arrangement in force for the carrying out of the prospecting operations on that land.	19 20 21 22
	Division 2 Petroleum information	23
[31]	Section 127	24
	Omit the section. Insert instead:	25
127	Minister or other officer not to be interested in petroleum title	26
(1)	A person must not, while holding office in an official capacity for the purposes of this Act and while exercising functions in that capacity, hold either directly or indirectly a beneficial interest in a petroleum title. Maximum penalty: 10,000 penalty units or imprisonment for 5 years, or both.	27 28 29 30
(2)	The following are persons who hold office in an <i>official capacity</i> for the purposes of this Act:	31 32
(a)	the Minister,	33
(b)	an inspector,	34
(c)	a member of staff of the Department who exercises functions under this Act or the <i>Mining Act 1992</i> ,	35 36
(d)	any other person who exercises any judicial or official functions under this Act or the <i>Mining Act 1992</i> .	37 38
(3)	This section does not prevent the Director-General from being the holder, on behalf of the Crown, of an exploration licence.	39 40
[32]	Section 137 Proceedings for offences	41
	Insert "or 92" after "section 7" in section 137 (3).	42

[33] Section 138 Regulations	1
Omit section 138 (1) (q).	2
[34] Section 141 General immunity of landholders	3
Insert at the end of section 141 (1) (b):	4
or	5
(c) by or under any other Act in connection with a power or right exercised under this Act or a petroleum title under this Act,	6 7
[35] Schedule 1 Savings and transitional provisions	8
Insert at the end of the Schedule with appropriate Part and clause numbering:	9
Part Provisions consequent on enactment of Responsible Mining (Protecting Land, Water and Communities) Act 2014	10 11 12
Definition	13
In this Part:	14
<i>amending Act</i> means the <i>Responsible Mining (Protecting Land, Water and Communities) Act 2014</i> .	15 16
Application of amendments to existing access arrangements determined by arbitrator	17 18
The amendments made by the amending Act to the provisions of this Act relating to access arrangements do not apply to prospecting operations in relation to which:	19 20 21
(a) an access arrangement determined by an arbitrator was in force immediately before the commencement of the amending Act, or	22 23
(b) an arbitrator had been appointed (by agreement or in default of an agreement) and had begun to conduct a hearing but in relation to which no final determination had been made by the arbitrator before the commencement of the amending Act.	24 25 26 27
Legal costs of access arrangements	28
Section 69DA, as inserted by the amending Act, does not apply in respect of legal costs relating to an access arrangement for which notice was given under section 69E (4) before the commencement of that amendment.	29 30 31
Section 69E (4), as in force before that commencement, continues to apply to such an arrangement.	32 33

Schedule 3	Amendment of Criminal Procedure Act 1986	1
	No 209	2
[1]	Schedule 1 Indictable offences triable summarily	3
	Insert after clause 17 (2) of Table 2:	4
	(3) An offence under section 364 of the <i>Mining Act 1992</i> .	5
[2]	Schedule 1, Table 2	6
	Insert after clause 18 (1):	7
	(2) An offence under section 127 of the <i>Petroleum (Onshore) Act 1991</i> .	8