



New South Wales

# Mining Amendment (Safeguarding Agricultural Land and Water) Bill 2009

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Mining Act 1992* to protect prime agricultural land (and water sources that feed prime agricultural land) from mining operations. As a result of the proposed section to be inserted in the *Mining Act 1992*, an exploration licence, assessment lease or mining lease cannot be granted under that Act in relation to any such protected land and planning approvals under the *Environmental Planning and Assessment Act 1979* (such as development consents or Part 3A project approvals) cannot be given for the purposes of mining operations on that land. **Prime agricultural land** is defined in the proposed section as land that is identified as Class 1 or 2 land in accordance with the agricultural land classification by the Department of Primary Industries. The Director-General of that Department will be required to identify (by way of maps) land that is protected land for the purposes of the proposed section and to make that information publicly available.

## Outline of provisions

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

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**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Schedule 1** contains the amendment to the *Mining Act 1992* described in the overview above.

Introduced by Ms Lee Rhiannon, MLC

First print



New South Wales

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New South Wales

# Mining Amendment (Safeguarding Agricultural Land and Water) Bill 2009

No. , 2009

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## A Bill for

An Act to amend the *Mining Act 1992* to make provision for protecting agricultural land and water from mining.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Mining Amendment (Safeguarding Agricultural Land and Water) Act 2009</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Mining Act 1992 No 29</b>	1
<b>Section 11B</b>		2
Insert after section 11A:		3
<b>11B</b>	<b>Safeguarding agricultural land and water from mining</b>	4
(1)	In this section:	5
	<i>aquifer</i> means a geological structure or formation that is permeated with water or is capable of being permeated with water.	6 7 8
	<i>EPA Act</i> means the <i>Environmental Planning and Assessment Act 1979</i> .	9 10
	<i>planning approval</i> means any of the following:	11
	(a) development consent under Part 4 of the EPA Act,	12
	(b) approval under Part 3A of the EPA Act to carry out a project to which that Part applies,	13 14
	(c) the modification of any such development consent or approval.	15 16
	<i>prime agricultural land</i> means land identified as Class 1 or 2 land in accordance with the document entitled <i>Agricultural Land Classification</i> produced by the Department of Primary Industries and as in force from time to time, and includes any land of a kind prescribed by the regulations, but does not include any land of a kind excluded by the regulations.	17 18 19 20 21 22
(2)	Words and expressions used in this section that are defined in the EPA Act have the same meaning as in that Act.	23 24
(3)	<b>Restriction on granting authorities</b>	25
	Despite any other provision of this Act, an authority cannot be granted over or beneath the surface of any of the following land (referred to in this section as <i>protected land</i> ):	26 27 28
	(a) prime agricultural land,	29
	(b) land on which, or within 1 kilometre of which, is situated a river or aquifer that feeds prime agricultural land.	30 31
(4)	<b>Restriction on planning approvals</b>	32
	Planning approval cannot be given or granted for the purposes of the carrying out of mining operations over or beneath the surface of protected land.	33 34 35
(5)	Any planning approval that is given or granted in contravention of subsection (4) has no effect.	36 37

(6)	Subsections (4) and (5) have effect despite the provisions of the EPA Act or any environmental planning instrument.	1 2
(7)	<b>Inventory of protected land</b>	3
	The Director-General of the Department of Primary Industries is to maintain an inventory of protected land. The inventory must contain maps that enable protected land to be identified and must be made available for public inspection on the Department's website.	4 5 6 7 8
(8)	<b>Disputes in relation to protected land</b>	9
	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).	10 11 12 13