



New South Wales

Environmental Planning and Assessment Amendment (Sea Bed Mining and Exploration) Bill 2024

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 *Environmental Planning and Assessment Act 1979* to prohibit the carrying out of sea bed petroleum and mineral exploration and recovery and related development.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203

Schedule 1 inserts proposed Schedule 10 into the *Environmental Planning and Assessment Act 1979*.

Proposed Schedule 10, section 1 contains interpretative provisions.

Proposed Schedule 10, section 2 prohibits a person from carrying out—

- (a) sea bed petroleum exploration or recovery, or sea bed mineral exploration or recovery, in the coastal waters of the State, or
- (b) other development within the State for the purposes of sea bed petroleum exploration or recovery or sea bed mineral exploration or recovery.

The prohibition does not apply to coastal protection works and certain dredging.

The proposed section also makes it clear that development subject to the prohibition is prohibited development for the purposes of the *Environmental Planning and Assessment Act 1979*, for example Part 4 (Development assessment and consent).

Proposed Schedule 10, section 3 enables regulations to be made to exempt the following from the prohibition—

- (a) specified sea bed mineral exploration or recovery,
- (b) specified development for the purposes of sea bed petroleum exploration or recovery or sea bed mineral exploration or recovery.

This is a Henry VIII provision.

The Minister for Planning and Public Spaces, being the Minister administering the *Environmental Planning and Assessment Act 1979*, must consult with the Minister for the Environment before recommending the making of an exemption regulation.

Proposed Schedule 10, section 4 provides that certain authorisations under the *Offshore Minerals Act 1999* and the *Petroleum (Offshore) Act 1982* must not be granted or renewed if the authorisation relates to development prohibited under the proposed schedule.



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

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Environmental Planning and Assessment Amendment (Sea Bed Mining and Exploration) Bill 2024

No , 2024

A Bill for

An Act to amend the *Environmental Planning and Assessment Act 1979* to prohibit the carrying out of sea bed petroleum and mineral exploration and recovery and related development; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Environmental Planning and Assessment Amendment (Sea Bed Mining and Exploration) Act 2024</i> .	3
	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Environmental Planning and Assessment Act 1979 No 203	1
		2
Schedule 10		3
Insert after Schedule 9—		4
Schedule 10	Sea bed petroleum and minerals development	5
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1 Interpretation		7
(1) In this schedule—		8
<i>coastal waters of the State</i> has the same meaning as in the <i>Interpretation Act 1987</i> , section 58.		9
<i>exploration</i> , for petroleum or a mineral, includes an activity that is directly related to the exploration for petroleum or the mineral.		10
<i>mineral</i> has the same meaning as in the <i>Offshore Minerals Act 1999</i> .		11
<i>petroleum</i> has the same meaning as in the <i>Petroleum (Offshore) Act 1982</i> .		12
<i>recovery</i> , of petroleum or a mineral, includes an activity that is directly related to the recovery of petroleum or the mineral.		13
<i>sea bed</i> includes subsoil beneath the sea bed.		14
(2) Despite subsection (1), the exploration for, or recovery of, a mineral does not include the exploration for, or the recovery of, the mineral from the sea bed that is carried out by means of underground mining from land in the State if the exploration, or recovery, is carried out in accordance with the <i>Mining Act 1992</i> .		15
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2 Sea bed petroleum and mineral exploration and recovery and related development prohibited		18
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(1) A person must not carry out—		20
(a) sea bed petroleum exploration or recovery, or sea bed mineral exploration or recovery, in the coastal waters of the State, or		21
(b) other development within the State for the purposes of sea bed petroleum exploration or recovery or sea bed mineral exploration or recovery.		22
Maximum penalty—Tier 1 monetary penalty.		23
(2) Subsection (1) does not apply to the following—		24
(a) coastal protection works within the meaning of the <i>Coastal Management Act 2016</i> ,		25
(b) dredging that does not require an authorisation of a kind referred to in section 4(1)(a) or (b).		26
(3) In subsection (1)(b), a reference to sea bed petroleum exploration or recovery, or sea bed mineral exploration or recovery, is a reference to sea bed petroleum exploration or recovery, or sea bed mineral exploration or recovery, whether within the coastal waters of the State or elsewhere.		27
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(4) This section has effect despite any provision of this Act or another law, other than section 3.		31
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(5) Development prohibited under this schedule is prohibited development for the purposes of this Act.		33
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3 Exemption regulations

- (1) The regulations may exempt the following from the prohibition in section 2(1)—
 - (a) specified sea bed mineral exploration or recovery,
 - (b) specified development for the purposes of sea bed petroleum exploration or recovery or sea bed mineral exploration or recovery.
- (2) Before recommending the making of a regulation under this section, the Minister must consult with the Minister administering the *Protection of the Environment Operations Act 1997*.

4 Grant and renewal of certain related authorisations prohibited

- (1) A Minister must not grant or renew an authorisation of the following kind if the authorisation relates to development prohibited under this schedule—
 - (a) the following under the *Offshore Minerals Act 1999*—
 - (i) a licence,
 - (ii) a special purpose consent,
 - (b) the following under the *Petroleum (Offshore) Act 1982*—
 - (i) a permit under the Act, Part 4, Division 2 for exploration in the coastal waters of the State,
 - (ii) a licence under the Act, Part 4, Division 3 for the recovery of petroleum from the coastal waters of the State,
 - (iii) a pipeline licence under the Act, Part 4, Division 4 for the construction, wholly or partly within the coastal waters of the State, of a pipeline to be used in connection with the recovery of petroleum,
 - (iv) a lease,
 - (v) an access authority,
 - (vi) a special prospecting authority.
- (2) A reference in subsection (1) to a Minister in relation to an Act means the Minister within the meaning of the Act.