

## NEW SOUTH WALES

### DRAFT NON-GOVERNMENT BILL

To be introduced by: the Hon Jeremy Buckingham,  
MLC

# Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill 2015

## 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 *Petroleum (Onshore) Act 1991*:

- (a) to prohibit prospecting for, or the mining of, coal seam gas in New South Wales, and
- (b) to reintroduce the public interest as a ground for certain decisions relating to petroleum titles.

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act on the day that is 14 days after the date of assent to the proposed Act. This day is also the *prohibition commencement day* for the purposes of the provisions to be inserted by the proposed Act.

## Schedule 1      Amendment of Petroleum (Onshore) Act 1991 No 84

**Schedule 1 [1]** inserts a new Part in the Act dealing with prospecting or mining coal seam gas. On and from the prohibition commencement day, the new Part:

- (a) prohibits prospecting for or mining coal seam gas is prohibited in all areas of New South Wales except in accordance with an existing petroleum production lease, and
- (b) provides for any petroleum title (other than an existing petroleum production lease) relating to coal seam gas that is in force immediately before that day ceases to have effect to the

extent to which it authorises prospecting for or mining coal seam gas in any area of New South Wales, and

- (c) prevents the Minister from granting new, or renew existing, petroleum title relating to coal seam gas, and
- (d) prevents the holder of an existing petroleum production lease from conducting petroleum mining operations involving drilling or hydraulic fracturing for the purpose of increasing or extending the holder's capacity to produce coal seam gas, and
- (e) enables the Minister to cancel a petroleum title that has entirely ceased to have effect because of the operation of the new Part, and
- (f) provides that the State is not required to pay compensation in connection with the enactment or operation of the new Part, but may nevertheless voluntarily choose to do so.

**Schedule 1 [2]** reintroduces the public interest as a ground for certain decisions relating to petroleum titles. The ground was first enacted by the *Mining and Petroleum Legislation Amendment (Public Interest) Act 2013*, but was subsequently repealed by the *Mining and Petroleum Legislation Amendment Act 2014*.

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Coal Seam Gas) Bill 2015**

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**Petroleum (Onshore) Amendment (Prohibit  
Coal Seam Gas) Bill 2015**

No , 2015

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**A Bill for**

An Act to amend the *Petroleum (Onshore) Act 1991* to prohibit prospecting for, or the mining of, coal seam gas in New South Wales and to reintroduce the public interest as a ground for certain decisions relating to petroleum titles.

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Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill 2015 [NSW]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Act 2015*.

**2 Commencement**

This Act commences on the day that is 14 days after the date of assent to this Act.

## Schedule 1 Amendment of Petroleum (Onshore) Act 1991 No 84

### [1] Part 2A

Insert after Part 2:

## Part 2A Prospecting or mining coal seam gas

### 7A Definitions

In this Part:

**coal seam gas** means any petroleum in a gaseous state that is extracted from coal seams or beds, shales or tight sands.

**existing petroleum production lease** means a petroleum lease that is in force immediately before the prohibition commencement day.

**petroleum title** relating to coal seam gas means any of the following:

- (a) an exploration licence granting the holder the exclusive right to prospect for coal seam gas on the land comprised in the licence,
- (b) an assessment lease granting the holder the exclusive right to prospect for coal seam gas and to assess any coal seam gas deposit on the land comprised in the lease,
- (c) a production lease granting the holder the exclusive right to conduct petroleum mining operations for coal seam gas in and on the land included in the lease,
- (d) a special prospecting authority granting the holder the exclusive right to conduct speculative geological, geophysical or geochemical surveys or scientific investigations in relation to coal seam gas on and in respect of the land comprised in the authority.

**prohibition commencement day** means the day on which this Part was inserted by the *Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Act 2015*.

### 7B Prohibition of coal seam gas prospecting or mining

- (1) On and from the prohibition commencement day:
  - (a) prospecting for or mining coal seam gas is prohibited in all areas of New South Wales except in accordance with an existing petroleum production lease (as modified by subsection (2)), and
  - (b) any petroleum title (other than an existing petroleum production lease) relating to coal seam gas that is in force immediately before that day ceases to have effect to the extent to which it authorises prospecting for or mining coal seam gas in any area of New South Wales, and
  - (c) the Minister must not (and cannot) grant or renew any petroleum title relating to coal seam gas.
- (2) An existing petroleum production lease that is a petroleum title relating to coal seam gas is taken, on and from the prohibition commencement day, not to authorise its holder to conduct petroleum mining operations involving drilling or hydraulic fracturing for the purpose of increasing or extending the holder's capacity to produce coal seam gas.
- (3) To avoid doubt, section 7 (Offence of prospecting or mining without authority) extends to a person who prospects or mines coal seam gas except in

accordance with an existing petroleum production lease (as modified by subsection(2)).

**Note.** Section 7 makes it an offence for a person to prospect for or mine petroleum (including coal seam gas) except in accordance with a petroleum title.

**7C Cancellation of ineffective petroleum titles**

- (1) A petroleum title relating to coal seam gas may be cancelled by the Minister on or after the prohibition commencement day if the Minister is satisfied that the title has entirely ceased to have effect because of the operation of this Part.
- (2) Cancellation of a petroleum title under this section takes effect on the date on which written notice of the cancellation is served on the holder of the title, or on such later date as is specified in the notice.
- (3) Notice of a cancellation of a petroleum title under this section is to be published in the Gazette as soon as practicable after the cancellation takes effect.
- (4) Before cancelling a petroleum title under this section, the Minister:
  - (a) must cause written notice of the proposed cancellation or suspension, and of the grounds of the proposed cancellation, to be served on the holder of the title, and
  - (b) must give the holder of the title a reasonable opportunity to make representations with respect to the proposed cancellation, and
  - (c) must take any such representations into consideration.
- (5) This section is in addition to, and does not derogate from, the provisions of section 22 (Cancellation and suspension of title).

**7D Compensation not payable**

- (1) Compensation is not payable by or on behalf of the State:
  - (a) because of the enactment or operation of this Part, the *Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Act 2015* or any Act that amends this Part, or
  - (b) because of any direct or indirect consequence of any such enactment or operation (including any conduct under the authority of any such enactment), or
  - (c) because of any conduct relating to any such enactment or operation.
- (2) This section extends to conduct and any other matter occurring before the commencement of this section.
- (3) To avoid doubt, nothing in this section prevents the State from voluntarily providing compensation, in such circumstances as it considers appropriate, for any conduct or other matter of a kind referred to in subsection (1) (a), (b) or (c).
- (4) In this section:

**compensation** includes damages or any other form of compensation.

**conduct** includes any statement, or any act or omission:

  - (a) whether unconscionable, negligent, false, misleading, deceptive or otherwise, and
  - (b) whether constituting an offence, tort, breach of contract, breach of statute or otherwise.

**statement** includes a representation of any kind, whether made orally or in writing.

*the State* means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agent of the Crown.

**7E Operation of Part**

This Part has effect despite any other provision of this Act or any other law.

**[2] Section 24B**

Insert after section 24A:

**24B Public interest relevant ground for making certain decisions about petroleum titles**

- (1) 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:
  - (a) a decision to refuse to grant, renew or transfer a petroleum title,
  - (b) a decision to cancel a petroleum title or to suspend operations under a petroleum title (in whole or in part),
  - (c) a decision to restrict operations under a petroleum title by the imposition or variation of conditions of a petroleum title.
- (2) To avoid doubt, section 22 (5) extends to the cancellation of (or suspension of operations under) a petroleum title under this section.
- (3) This section has effect despite anything to the contrary in this Act.
- (4) This section applies to any decision made after the commencement of this section, including:
  - (a) a decision with respect to an application or other matter that was pending on that commencement, and
  - (b) a decision that is based on conduct that occurred, or on a matter that arose, before that commencement.