

Mineral Resources (Galilee Basin) Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the *Mineral Resources (Galilee Basin) Amendment Bill 2018* (the Bill).

Policy objectives and the reasons for them

The objective of the Bill is to contribute to Australia's commitments to pursue efforts to keep global warming below 1.5 degrees above pre-industrial levels by 2100 by preventing any coal mining in the Galilee Basin.

The Bill is based on the modelled pathways of global coal use in the Intergovernmental Panel on Climate Change *Special Report on Global Warming of 1.5°C (the IPCC Special Report)* published on 8 October 2018. To avoid the most dangerous extremes of global warming, the IPCC Special Report found that coal use for electricity generation must fall to 0-2% of global electricity supply by 2050.

The Queensland government supports the Paris Agreement and has committed to do its fair share to meet Australia's commitments under that Agreement.¹ The IPCC Special Report was prepared specifically in response to the Paris Agreement's ambition to pursue efforts to limit temperature increase to 1.5 degrees above pre-industrial levels by 2100.

The IPCC Special Report summarises existing peer-reviewed scientific studies to provide a consensus statement on:

- additional harm from 2 degrees of warming compared to 1.5 degrees,
- scientific limits on pollution to provide at least a 50% chance of avoiding 1.5 degrees of warming, and
- technologically and physically feasible pathways to cut climate pollution in line with those scientific limits.

Importantly, the IPCC Special Report finds that global impacts, including impacts on Queensland specifically, are far more severe at 1.5 degrees of warming compared to 2 degrees. These impacts include:

¹ Queensland Climate Transition Strategy, 2017 Available:
https://www.qld.gov.au/_data/assets/pdf_file/0026/67283/qld-climate-transition-strategy.pdf

- The total destruction (more than 99%) of the Great Barrier Reef and almost all coral reefs at 2 degrees, compared to a very serious but not fatal decline of 70-90% at 1.5 degrees.
- Risks from droughts, loss of rainfall, floods, extreme weather and cyclones is higher at 2 degrees compared to 1.5 degrees.
- Hundreds of millions more people would be exposed to climate-related threats such as water stress, loss of food security, disease and risk of conflict at 2 degrees compared to 1.5 degrees.
- Global mean sea level rise by 2100 would be reduced by 0.1m at 1.5 degrees compared to 2 degrees, meaning 10 million fewer people would be directly affected.
- Approximately 13% of all terrestrial ecosystems face a “transformation” from one type to another at 2 degrees, but the area at risk is reduced by 50% at 1.5 degrees.²

To avoid these impacts, global climate pollution must fall rapidly, including a global cut of 45% (compared to 2010 levels) by 2030 and reaching “net zero” by around 2050. The pollution cuts are global, meaning that rich, developed nations like Australia must cut pollution even faster.

The IPCC Special Report finds that limiting global warming to 1.5°C would require “rapid and far-reaching” transitions in land use, energy, industry, buildings, transport, and cities.³

The *Summary for Policymakers* attached to the IPCC Special Report notes:

“...[by 2050] the use of coal shows a steep reduction in all pathways and would be reduced to close to 0% (0–2%) of electricity (*high confidence*).”⁴

Such a rapid global phase-out of thermal coal requires long-term planning and immediate action, including a plan to phase out existing thermal coal power stations and mines starting as soon as possible and finishing well before 2050. The Greens have previously announced a plan to phase out domestic coal-fired power stations by 2030.⁵

Crucially, the required global phase out means that new thermal coal mines like those proposed in the Galilee Basin can never be built.

The Galilee Basin mines are proposed to run for many decades, relying on continuing to export thermal coal well beyond 2050. Just one project, the Adani Carmichael coal mine, would continue exporting coal for 60 years, or the year 2080 if mining started in 2020. Other projects

² Summary of Policymakers, pages 8-11, available at: http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf

³ Summary of Policymakers, page 21, available at: http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf

⁴ Summary of Policymakers, page 21, available at: http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf Original emphasis.

⁵ Queensland Greens, Power for People Plan 2017, <https://greens.org.au/qld/platform/power-for-people> and Australian Greens, Renew Australia 2015, https://greens.org.au/sites/default/files/2018-06/2015_11_Renew_Australia.pdf

including the Alpha, China Stone, Galilee Coal, Alpha North and Kevin's Corner mines have similarly long proposed lifespans.

The Bill aims to put Queensland on a trajectory which protects our vast natural assets from dangerous global warming, and which sends appropriate signals about our long-term economic development to all players including public sector entities and private businesses.

Achievement of policy objectives

The Bill achieves its policy objectives by amending *Mineral Resources Act 1989* to stop all coal mining in the Galilee Basin. The Bill:

- Prohibits the grant of a coal mining lease for land in the Galilee Basin;
- Terminates any existing coal mining leases for land in the Galilee Basin;
- Amends any existing coal mining leases which overlap with land in the Galilee Basin to exclude that land;
- Confirms that no compensation is payable to the mining lease holders affected by the Bill; and
- Requires the mines minister to table a report in the Legislative Assembly summarising the actions taken under the provisions of the Bill.

The Bill defines “coal mining lease” as a mining lease for coal or a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining.

The Bill defines “Galilee Basin” according to the ordinary industry usage as reflected in the Queensland government’s summary of coal projects dated July 2017, incorporating the map in that document into the Bill.

The only existing mining leases in the Galilee Basin is held by companies in the Adani Group. The leases were granted by the Queensland Labor government in April 2016.⁶

Alternative ways of achieving policy objectives

There is no alternative method of achieving the policy objectives.

Estimated cost for government implementation

There are no significant cost impacts from the Bill.

⁶ Media release available here:
<http://statements.qld.gov.au/Statement/2016/4/3/carmichael-mine-approvals-put-thousands-of-new-jobs-step-closer>

Consistency with Fundamental Legislative Principles (FLPs)

The Bill raises issues in relation to fundamental legislative principles, but this interference is well justified on the basis of the overwhelming risk to human safety and the risk of catastrophic global warming with far-reaching and immediate action.

It could be argued that the Bill contradicts the FLP that legislation should not interfere with property without fair compensation unless there is a good reason.⁷ It is difficult to see how the cancellation of a mining lease and a permanent ban on all coal mining on that same land would qualify as an “acquisition”. Even if the cancellation of a mining lease does qualify as an acquisition of property under current jurisprudence, the existential threat posed by dangerous global warming justifies the measures in this Bill.

Companies involved in exploration in the Galilee Basin have been on notice for many years about the risks of dangerous global warming, and about the long-term need to phase out thermal coal mining. The UN Framework Convention on Climate Change (**UNFCCC**) was announced in 1992 and entered into force in 1994. The UNFCCC committed its signatory governments to reduce atmospheric concentrations of greenhouse gases with the goal of “preventing dangerous anthropogenic interference with Earth's climate system”.

Ever since, the best available science has been pointing to a need to phase out thermal coal. Most recently, world governments adopted Paris Agreement in 2015, which commits them to pursue efforts to keep warming below 1.5 degrees by 2100.

These global efforts across 25 years have provided ample warning to fossil fuel companies in general, and proponents of new thermal coal mines in particular that drastic action to reduce climate pollution will be necessary.

Consultation

The Member has developed the Bill based on stakeholder and community feedback and based on pathways for thermal coal use in the globally authoritative IPCC Special Report.

Consistency with legislation of other jurisdictions

Each Australian jurisdiction has unique approaches to addressing the matters contained in these amendments, but the proposal to open up such enormous new coal reserves in Queensland's Galilee Basin poses a unique threat to the global climate. By adopting this Bill, Queensland would become a climate action leader across Australia.

⁷ Queensland Legislation Handbook available at <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/legislation-handbook.aspx>

Notes on provisions

Part 1 Preliminary

Clause 1 Short Title

Clause 1 provides that when enacted, the Bill may be cited as the *Mineral Resources (Galilee Basin) Amendment Bill 2018*.

Part 2 Amendment of *Mineral Resources Act 1989*

Clause 2 Act Amended

Clause 2 states that this part amends the *Mineral Resources Act 1989*.

Clause 3 Prohibition on coal mining in the Galilee Basin

Clause 3 amends s234 to prohibit the issue of any coal mining lease for land in the Galilee Basin by the Minister.

Proposed subsection (5) ensures that applications made before the commencement of the Bill are captured by this prohibition.

Proposed subsection (6) defines

- ***coal mining lease*** as a mining lease for coal or a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining; and
- ***Galilee Basin*** according to the ordinary industry usage as reflected in the Queensland government's summary of coal projects dated July 2017, incorporating the map in that document into the Bill.

Clause 4 Termination or amendment of coal mining leases over the Galilee Basin

Clause 4 inserts a new Chapter 12 Part 4C.

Proposed section 334ZJL inserts the same definitions as above.

Proposed section 334ZJM provides that a coal mining lease that is only for land in the Galilee Basin is immediately terminated on commencement of that the section, and that no compensation is payable in respect of any termination.

Proposed section 334ZJN provides that the Minister must as soon as practicable after commencement, amend a coal mining lease which is partly for land in the Galilee Basin so that the amended lease no longer covers that land. It also provides that no compensation is payable in respect of any amendment.

Proposed section 334ZJO provides that the Minister must table a report in the Legislative Assembly summarising the actions taken under the provisions of the Bill.

Clause 5 Dictionary

Clause 5 amends Schedule 2 to insert a consequential amendments.