

ENERGY AND ENVIRONMENT COMMITTEE BILL

NSW YOUTH
PARLIAMENT





Environmental Protections Bill 2021 (NSW)

The Hon. Maximus Pondal, Blacktown
The Hon. Ella Feeney, Charlestown
The Hon. Jayden Delbridge, Wyong
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Environmental Protections Bill 2021

A Bill

for

An Act to implement environmental safeguards to ensure sustainability and biodiversity, and other related purposes.



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Explanatory Notes

The purpose of this Bill is to safeguard the integrity of the natural environment and climate in New South Wales (NSW). The Bill was created to address these key issues under the umbrella idea of safeguarding the integrity of the natural environment and climate in NSW. The areas of concern are mining and coal exploration, grazing in national parks, and the need to declare a climate emergency.

The Bill sets out provisions on the rehabilitation of mining. In the ‘Strategic Statement on Coal Exploration and Mining in NSW’ report, by The Hon. John Barilaro, former Deputy Premier, coal was labelled NSW’s largest export commodity. Coal provides a major source of revenue for NSW (Exploration and mining in NSW - NSW Resources and Geoscience, 2021) which underpins the prosperity of many local economies in the regions of NSW. Mining and exploration companies within NSW abide by a few principal acts including the *Mining Act 1992 (NSW)*, and the *Protection of the Environment Operations Act 1997 (NSW)*. However, a report by the Auditor-General in 2017 claimed the provisions to rehabilitate the state’s 450 mines in NSW were “inadequate... required outcomes vague... risks of long-term failure... uncovered.” Additionally, complaints from regional councils claimed “big miners such as BHP Billiton had failed to rehabilitate mines appropriately in their area” (Hannam, 2017). The enforceability of policies on mining companies to rehabilitate land after mining use is insubstantial due to numerous broad and complex management conditions, which ultimately make “compliance, monitoring, and regulation complex”, according to The Hon. John Barilaro in a July 2021 Sydney Morning Herald Article (Smith, 2021). This Bill aims to set out a rehabilitation program after mining exploration has concluded, with mining permits only being given if the party provides reasonable steps to rehabilitate the mine after the conclusion of its operations.

Part 3 of the Bill sets out the implementation of a regulator for the oversight of graziers in national parks. By utilising planned and rotational grazing, more carbon is able to be absorbed by vegetation because the plant has not been overused, thus the plant will absorb more carbon in order to regrow. This Bill appoints a regulator to oversee this implementation. Graziers are able to submit an application to the Department to rotationally graze. If the application has been approved, the regulators will commission an inspector to assess the reliability of sustainable grazing and the seasonal environmental status of the specified area in the national park as identified in the initial application. The inspector will preview the area requested to be rotationally grazed to see the condition of the area. It is anticipated that the inspector will then recheck the area after a period of time set by the regulator to assess the condition of the area to ensure it has not been overgrazed and is in good health.



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Furthermore, this Bill aims to establish a moratorium on large-scale deforestation. Deforestation not only exacerbates climate change but also can cause desertification, soil erosion, lower crop yields and flooding, as well as increased greenhouse gases in the atmosphere. Deforestation impacts soil and water health, as without trees, the geographic issue of erosion becomes more prevalent. Sediments, nutrient and pesticide pollution from run-off can contaminate waterways, such as rivers, which can in-turn threaten the health and resilience of ecosystems. In Australia, approximately one-third of the world's most arable land has been destroyed due to soil erosion and degradation since the 1960s. Moreover, deforestation impacts communities and thriving economies. "National economies rely on forests for the critical role they play in providing clean water, productive soils, a stable climate, habitat for crop pollinators and pest predators, tourism and recreation," (World Wildlife Fund (WWF), 2018). An article published in 2018 by the ABC outlines how Australia has become "one of the worst deforesters in the world". The biennial Living Planet Report published that Australia is alongside New Guinea, Indonesia, Congo, and Brazil for deforestation. It further highlights the policies where New South Wales allowed for the clearance of over 7,000 hectares of native vegetation in 2015-16 – an increase of 800 per cent in three years, whilst its State Government relaxed the laws around land clearing. During that time, environmental groups warned of the adverse effects on biodiversity such as major increases in the loss of habitat would occur across native flora and fauna species, including koalas. "The WWF estimates the koala will be extinct as early as 2050" (Australian Broadcasting Corporation, 2018).

This Bill will also declare a climate emergency. Currently, 1,986 jurisdictions in 34 countries have declared a climate emergency. On 2 December 2020, the federal government rejected a Climate Emergency Declaration Bill proposed by Greens leader, the Hon. Adam Bandt. In the United Kingdom, the House of Commons passed a motion to declare a Climate and Environmental Emergency on 1 May 2019. MPs from all sides of the political spectrum signed the motion that has become the basis for countries around the world to follow. This Bill will establish a Climate Emergency Committee to discuss climate options in a bipartisan nature. It will also set targets and aims for the NSW Government to follow. Furthermore, it will allocate funds for action on climate change.

In summary, the Bill recognises the inadequacies within the current systems to safeguard the integrity of the natural environments within NSW and the lack of response to climate issues. All four key environmental issues raised in this Bill, and the solutions proposed, work to improve sustainability and biodiversity for the future people of NSW.



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The Youth Parliament of New South Wales enacts –

Part 1: Preliminary

1. Short Title

This act may be cited as the *Environmental Safeguarding Act 2021*.

2. Commencement

This Bill shall commence twenty-eight (28) days after Royal Assent from the NSW Youth Governor.

3. Objects

The objects of this bill are to:

- a) Rehabilitate mines, restoring the regions' original/native flora and fauna;
- b) Create permits to allow livestock to graze in national parks;
- c) Implement a moratorium on large-scale deforestation and hold the government accountable for direct and indirect impacts on deforestation;
- d) Declare a climate emergency, acknowledging the urgency of climate change and be a leader within the response from governments; and
- e) Prevent deforestation and conserve areas that have a high degree of biodiversity.

4. Definitions

In this Act:

- a) **NSW** is an abbreviation for the term “New South Wales”.
- b) **Mine Permit** means a permit given by a Government Department.
- c) **Department** refers to NSW Department of Planning, Industry and Environment
- d) **Grazing** is the action of allowing livestock to directly consume growing forage.
- e) **Holistic resource management training** means undertaking training that educates graziers on effective methods to manage resource use.
- f) **Agriculture** means to use agricultural practices in an area under protection of the *National Parks and Wildlife Act 1974* and accompanying regulations, including the *Wilderness Act 1987*.
- g) **Rehabilitation** is the process of repairing and maintaining the land once the mining process is complete. It involves creating a landscape that can support future ecosystems and biodiversity.
- h) **Mine Subsidence** is the movement of the ground that occurs following the extraction of materials through mining.



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- i) **Acid Mine Drainage** is a water quality issue that occurs when sulfur-bearing materials (produced in the mining process) are exposed to atmospheric oxygen, moisture, and iron-oxidising bacteria resulting in sulfuric acid, which reduces water pH and water quality of the surrounding area.
- j) **The inspector** refers to an inspector commissioned by regulators to assess the effectiveness of agricultural practises in national parks.
- k) **Large-scale** means any bigger than twenty (20) hectares in land size area.
- l) **National Park** has the same meaning as in the *National Parks and Wildlife Act 1974*.
- m) **Party** is any individual, organisation, collective group of people, or business.
- n) **Unforeseeable events** include any event that could not be reasonably predicted.
- o) **Deforestation** is the action of clearing a wide area of trees.
- p) **Logging** means the cutting or harvesting of any timber.
- q) **Biodiversity** means fauna and native plants.
- r) **IPCC** is an abbreviation for the term “Intergovernmental Panel on Climate Change”.
- s) **SLATS** is an abbreviation for the term “State-wide Landcover and Trees Study”
- t) **Regulators** means the NSW National Parks and Wildlife Service under the Department of Planning, Industry and Environment.
- u) **NDCs** Nationally Determined Contributions, on-binding national plans highlighting climate actions, regarding the Paris Agreement.

Part 2: Mine Rehabilitation

5. Mining Permit

- 1) To receive a mining permit, all mining projects must present an Environmental Protection Plan to the department to be approved.
- 2) To receive this permit parties must have included in their environmental protection plan items which meet the following conditions:
 - a) Present actionable steps to successfully rehabilitate the land.
 - b) Provide a plan for how they will achieve 75% of the original biodiversity within two years of the mines' closure.
 - c) Demonstrate the long-term stability and sustainability of the landforms, soils and hydrology of the site, the partial or full repair of ecosystems capacity to provide habitats for biota and services for people or the prevention of pollution of the surrounding environment.
 - i) Particularly the rehabilitation of water systems that are affected by Acid Mine Drainage, and the exposure of sulfur-bearing materials to the hydraulic environment.
 - d) Provide a plan for the maintenance of the site's structural integrity once rehabilitated to prevent mine subsidence from occurring.
 - e) A mining permit will not be approved until the Environmental Action Plan has satisfied all criteria.
- 3) Failure to meet conditions outlined in the environmental protection plan.
 - a) Failure to meet the measures outlined in the Environmental Protection Plan approved by the Department will result in precaution points.
 - b) Precaution points will be determined at the discretion of the Department.
 - c) At the end of the financial year each precaution point will lead to a fine of 10% of the party's earnings from the mine in question.
 - d) If a party receives more than ten (10) precaution points within a five (5) year period (across all mining projects), they will be required to lodge a report to the Department outlining the reasons why they did not meet the requirements.
 - i) If the Department concludes that the party is at fault, their ability to apply for new permits will be revoked during a one (1) year period.
 - ii) Operating parties are considered to have a responsibility to adapt to unforeseeable events. Only under extenuating circumstances will the party be able to appeal a Precaution Point fine.
 - e) Regarding Clause 5(3); a party is defined as the company conducting the mining project, and anyone relating to that company including any subsidiaries, employees or anyone benefiting from the company financially.



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Part 3: Use of agriculture within national parks

6. Permit Implementation

- 1) A system under which the use of grazing in national park protected areas, and the allowance of this will incur a statement of permission (permit), granted at the sole discretion of the regulators under the department.
- 2) To be granted a permit, the party, individual or otherwise, must submit an application to the Department and in-turn the regulators. Application inclusions are described in “*Clause 7 - Application To Graze In National Park Protected Areas*”.
- 3) A permit granted for allowance of grazing in a national park protected area would state the limiting factors specific to each application. These limiting factors will also describe the practices necessary to enact the permission statement and the practice of grazing itself.

7. Application To Graze In National Park Protected Areas

- 1) The initial application for a permit to graze in national park protected areas must include at the discretion of the regulators, but is not limited to:
 - a) Personal information of the party applying to graze;
 - b) The zone within a specified national park the party wishes to graze in (preference); and
 - c) Proof of expertise.
- 2) To prove expertise the party must present evidence of at least one of the following:
 - a) Department courses;
 - b) Department of Primary Industries courses;
 - c) Holistic resource management training and educational courses from approved NSW regulators; or
 - d) The individual party’s experience and knowledge of practical and theoretical farming practises including time controlled high-density grazing.
- 3) An inspector will be commissioned, under the governance of the regulators, to assess the reliability of sustainable grazing and the seasonal environmental status of the specified area in the national park protected area as stated in the initial application.
 - a) The inspector will report the analysis to the regulators, and upon approval of the application to graze with consideration to the analysis, the regulators will issue a permit outlining limitations and further documentation required.
 - b) These limitations and further documentation may include, but is not limited to:
 - i) Match stocking rate to carrying capacity using time controlled high density grazing;



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- ii) Maximum amount of time permitted for livestock to be on a section of the zone (sections to be outlined and included in the statement of permission document issued by the regulators);
- iii) Explicit outline as to the practises and monitoring of the livestock whilst on national park protected areas;
- iv) Safe handling practice of livestock and environment when on national park protected areas;
- v) Maximum amount of time livestock is to be in national parks (grazing period); and
- vi) A veterinary certificate of good health as to the individual livestock intending to graze the specified zone in national park protected areas.

8. Post Grazing Period

- 1) The commissioned inspector will assess the effectiveness and application of sustainable grazing and the seasonal environmental status post grazing within the specified area of the national park protected area as stated in the statement of permission.
 - a) The inspector will collate the analysis prior and post grazing and will issue a final report outlining the effectiveness of the grazing in the specified zone as identified in the statement of permission issued by the regulators.
 - b) This report must include a statement as to the availability of permits related to that specific zone and outline the time period after which the land will be suitable to graze again.
 - i) A party wishing to graze on this specific zone of national park protected areas may apply, however be denied a statement of permission due to the environmental status of that specified area due to previous grazing.

Part 4: Moratorium on large-scale deforestation

9. Provisions

- 1) To establish a moratorium on large-scale deforestation
- 2) The Minister for Energy and Environment of New South Wales is to be in charge of tree-clearing decisions. In the manner specified below:
 - a) Ministerial approval for clearing trees must only be granted through the examination of the proposals with objective scientific assessment methodology.
 - b) The Minister for Energy and Environment of New South Wales shall provide an annual section about deforestation and afforestation section in a report, named the Ministerial Environmental Report (MER).
 - c) This report is to emphasise the achievements and reflections of the NSW Government in relation to their commitments to the environment.
 - d) Comprehensive measures mentioned by the annual MER must be examined, briefed and codified to provide a grasp of the government's objectives in relation to the commitments to the environment.
- 3) The Minister for Energy and Environment of New South Wales is to establish, and be head of, a bipartisan committee to regularly assess, propose and add on to proposals regarding combating large-scale and unnecessary deforestation. This is set out as follows:
 - a) This committee shall be named the Forestry Committee.
 - b) The Forestry Committee will consist of two (2) government, two (2) opposition and two (2) crossbench legislators from either chamber of the Parliament of New South Wales to meet in a six (6) month timeframe to assess deforestation issues and afforestation measures in a bipartisan manner.
 - c) The Forestry Committee will discuss matters concerning New South Wales and contribute to the Ministerial Environmental Report (MER), through a uniform and constructive basis of examination concerning the NSW Government.
- 4) The New South Wales Government is to release transparent and prompt state-wide clearing data at a regular manner.
- 5) An annual report, alongside comprehensive data on state-wide clearing, will introduce fair transparent data and information on logging in the state of New South Wales.
 - a) This will clearly state the clearing of regrowth and remnant vegetation over a twelve (12) month period; and
 - b) This will be similarly based on the Queensland Government's annual State-wide Landcover and Trees Study (SLATS) report.
- 6) A moratorium on large-scale deforestation is to be mandated, with input from scientific and non-partisan organisations, such as but not limited to, the World Wildlife Fund.



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- a) These non-partisan organisations will work with the Environmental Protection Authority on the limits of deforestation and implement measures to address the environmental cost of deforestation at a large scale.
- 7) A fund of a minimum of \$1,000,000 is to be allocated to support initiatives innovating practical solutions to increase the efficiency of tree planting, increase the effectiveness of tree species capturing CO₂ and to implement safety plans and resources in the event of a bushfire.
- 8) A further fund of a minimum of \$1,000,000 is to be allocated to counter the financial ramifications of companies who violate policies and legislation, as well as natural disasters, to offset the effects of deforestation. It is set out as follows:
 - a) Violations of legislation and policies regarding deforestation must be decided through the Deforestation Committee.
 - b) The allocation of funds must also be used to help those whose property and/or livelihoods have been impacted due to the effects of the 2019-2020 bushfire season, as well as previous and future natural disasters, to ensure the mitigation of impacts as much as possible.
- 9) An allocation of \$1,000,000 will be used to reforest previously cleared and degraded land that has been impacted by deforestation.
 - a) The NSW National Parks and Wildlife Service shall be given this grant to substantially add to their existing \$1,000,000 grant to rehabilitate lands.
 - b) They are mandated to fund projects to adequately supplement CO₂ and other greenhouse gas emissions to mitigate the total greenhouse gas emissions of New South Wales.

Part 5: Declaration of a Climate Emergency

10. Provisions

- 1) To move a motion to declare an environmental and climate emergency.
- 2) To amend the current objectives of the NSW Government on greenhouse gas emissions, adopting measures mentioned in the *Intergovernmental Panel on Climate Change (IPCC)'s Sixth Assessment Report - Summary for Policymakers* by initiating:
 - a) An introduction of a state-wide specific greenhouse gas emissions target by the NSW Government:
 - i) to reduce methane emissions by 55% on 2005 levels by 2030; and
 - ii) to reduce carbon dioxide emissions by 50% on 2005 levels by 2030.
 - b) Implementation of obligatory measures by all state departments in compliance with the climate emergency declaration, such as:
 - i) individual evaluation of policies set by state departments to better reflect the climate emergency declaration;
 - ii) awareness of the purpose of policies set by state departments to better reflect the climate emergency declaration; and
 - iii) statements and reports on how state departments respond to the climate emergency declaration.
 - c) Expansion of the powers of the Department of Planning, Industry and Environment to conduct individual community feedback consultations that pertain to the consideration of new grants of licences, permits, and funding of infrastructure projects of significant environmental concern. In this process:
 - i) every feedback consultation shall be conducted with regard for the specific demographic concerns of the area being consulted;
 - ii) feedback consultations shall consist of the presentation of the advantages and disadvantages of construction of infrastructure projects of notable environmental concern; and
 - iii) all work pertaining to community feedback consultations shall be summarised in the form of a publicly accessible online report, placed ideally on a Department website.
 - d) Implementing environmental changes to areas of the state with the most socioeconomically disadvantaged communities that can have positive socioeconomic outcomes
 - i) particularly regarding preventable pollution and maintenance-related infrastructure projects.
 - ii) evaluation of such projects to be discussed with the local council concerned for community feedback.



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- 3) The Minister for Energy and Environment of New South Wales will establish, and be head of, a bipartisan committee named the Climate Emergency Committee (CEC) and will be set out as follows:
 - a) The CEC will regularly assess, propose and add on to proposals regarding combating the climate emergency.
 - b) The CEC will consist of two (2) government, two (2) opposition and two (2) crossbench legislators from either chamber of the Parliament of NSW to meet in a six (6) month timeframe to assess climate emergency issues that impact the community.
 - c) The CEC will discuss matters concerning climate change relevant to New South Wales and contribute to the Ministerial Environmental Report (MER) through a uniform and constructive basis of examination concerning the NSW Government.
- 4) An allocation of funds amounting to \$5,000,000 will be allocated to implement adequate and sustainable change in official and affiliated institutions to encourage and mandate measures to meet the pledged reduction of greenhouse gas emissions by 50% in 2030 and net-zero emissions by 2050.
 - a) These funds can be utilised to help indirect measures to address the climate emergency, particularly towards environmental initiatives set by:
 - i) State departments;
 - ii) Local councils;
 - iii) Not-for-profit environmental organisations;
 - iv) Charitable organisations;
 - v) Youth engagement groups; and
 - vi) Local community initiatives.



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Amendments

Amendment One

Clause number:

Part 3

Amendment request (bold the appropriate option):

- AMENDMENT
- OMITTING
- **NEW CLAUSE**

Amendment request:

Add the below clause:

9. Obligations of graziers.

1. The National Parks and Wildlife Service ('the Service') will implement standards for graziers to follow in each instance of grazing in protected areas. These standards may include, but are not limited to:
 - a. Biodiversity loss;
 - b. Tree clearance or other damage to flora;
 - c. Habitat damage; and
 - d. Soil damage.
2. Significant violation of these standards, as determined by the Service, or of the limitations imposed by the inspector as outlined in 7.3.b, will result in:
 - a. A proportionate fine, to be determined by the Service, of no less than ten thousand dollars (\$10,000) and no more than one hundred thousand dollars (\$100,000); and
 - b. The revocation of grazing rights in protected areas for a period of time to be determined by the Service, proportionate to the degree to which the standards were violated.
3. Graziers shall be forbidden to use invasive agricultural practices as determined by the Service, including but not limited to;
 - a. Pesticide;
 - b. Insecticide;
 - c. Herbicide; and
 - d. Inorganic fertilisers.



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Amendment Two

Clause number (if new clause, put new clause number):

Clause 5.3

Amendment request (bold the appropriate option):

- **AMENDMENT**
- OMITTING
- NEW CLAUSE

Original clause (paste entire wording):

5. Mining Permit

- 3) Failure to meet conditions outlined in the environmental protection plan
 - a) Failure to meet the measures outlined in the Environmental Protection Plan approved by the Department will result in precaution points.
 - b) Precaution points will be determined at the discretion of the Department
 - c) At the end of the financial year each precaution point will lead to a fine of 10% of the party's earnings from the mine in question.
 - d) If a party receives more than ten (10) precaution points within a five (5) year period (across all mining projects), they will be required to lodge a report to the Department outlining the reasons why they did not meet the requirements.
 - i) If the Department concludes that the party is at fault, their ability to apply for new permits will be revoked during a one (1) year period.
 - ii) Operating parties are considered to have a responsibility to adapt to unforeseeable events. Only under extenuating circumstances will the party be able to appeal a Precaution Point fine.
 - e) Regarding Clause 5(3); a party is defined as the company conducting the mining project, and anyone relating to that company including any subsidiaries, employees or anyone benefiting from the company financially.

Amendment request:



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- 3.c). Replace “10%” with “15%”.
- 3.d). Replace “If a party receives more than ten (10) precaution points within a five (5) year period” with “If a party receives more than twenty (20) precaution points within a five (5) year period”.
- 3.d.i). Replace the words “revoked during a one (1) year period” with “revoked during a five (5) year period.”

New clause show now read:

- 3. Failure to meet conditions outlined in the environmental protection plan
 - a) Failure to meet the measures outlined in the Environmental Protection Plan approved by the Department will result in precaution points.
 - b) Precaution points will be determined at the discretion of the Department
 - c) At the end of the financial year each precaution point will lead to a fine of 15% of the party’s earnings from the mine in question.
 - d) If a party receives more than twenty (20) precaution points within a five (5) year period (across all mining projects), they will be required to lodge a report to the Department outlining the reasons why they did not meet the requirements.
 - i) If the Department concludes that the party is at fault, their ability to apply for new permits will be revoked during a five (5) year period.
 - ii) Operating parties are considered to have a responsibility to adapt to unforeseeable events. Only under extenuating circumstances will the party be able to appeal a Precaution Point fine.
 - e) Regarding Clause 5(3); a party is defined as the company conducting the mining project, and anyone relating to that company including any subsidiaries, employees or anyone benefiting from the company financially.



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Amendment Three

Clause number (if new clause, put new clause number):

5.4)

Amendment request (bold the appropriate option):

- AMENDMENT
- OMITTING
- **NEW CLAUSE**

Amendment request:

Add the below clause after 5.3)

1. Parties are required to conduct consultation with the local community over the course of the rehabilitation process.
 - a. This is to be conducted by a committee consisting of representatives from:
 - i. The Local Government Area;
 - ii. The local Aboriginal Land Council;
 - iii. The National Parks and Wildlife Service; and
 - iv. Any other local groups that the committee deems appropriate to receive representation.
 - b. The mining party is required to send quarterly reports to the committee, providing an update on the rehabilitation of the site, including, but not limited to:
 - i. Restoration of biodiversity;
 - ii. Restoration of soil health;
 - iii. Restoration of water health; and
 - iv. Any other metrics that the committee deem appropriate.
 - c. Should the party fail to provide any information the committee requests or fail to meet rehabilitation standards as determined by the committee, the committee may report the party to the Department, who shall investigate and provide penalty points as necessary.



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Results of the Vote

The results of the vote on the amendments were 34 Ayes, 12 Noes, and 2 Abstained. As such, the amendments were resolved in the affirmative.

The results of the vote on the Bill were 44 Ayes, 3 Noes, and 1 Abstained. As such, the Bill was passed.

The Environmental Protections Bill 2021 (NSW) was **passed in its amended form.**