

New protest laws

HERE'S THE LATEST ON THE "Santos laws." Will magistrates really fine protectors \$5500 ? I doubt it! They see real criminals every day !
4 women who locked on in the Pillaga were released without fines on Section 10 on Monday in Lismore Court by Magistrate David Heilpern Sledge

Hi Sledge,

The new laws (which are yet to become "law" in NSW) propose to introduce amendments to different pieces of legislation. The introduction of the offence of aggravated trespass will amend the *Inclosed Lands Protection Act 1901*. This offence is **not related** to the introduction of amendments (namely the expansion of the definition of a mine to include CSG operations) to section 201 of the *Crimes Act 1900*.

You are right that a new offence of 'aggravated unlawful entry on inclosed lands' has been created. You could be guilty of this new offence of aggravated trespass if you:

(a) enter inclosed lands on which any **business** or **undertaking** is conducted

AND

(b) while on those lands, interfere, attempt to interfere, or intend to interfere with the conduct of the **business** or **undertaking**'.

'Inclosed lands' means **any land, either public or private** that is surrounded by a fence, wall or other erection, or partly by a fence and partly by a natural feature (like a river or cliff) that makes the land's boundaries recognisable. Inclosed lands also include certain premises (such as schools, hospital and nursing homes).

This means that a person who enters a mine site which is inclosed (or any other inclosed lands where some business activity is being carried out) and, as a result of their presence on the mine site, operations are suspended, could be guilty of this offence.

This offence will be punishable by a maximum penalty of \$5,500.

The Bill also introduces amendments to section 201 of the Crimes Act.

You could be guilty of an offence and face imprisonment for 7 years if you intentionally or recklessly (new amendments are in **bold**):

(a) cause water to run into a mine or any subterranean channel connected to it,

(b) destroy, damage or obstruct any shaft, passage, pit, airway, waterway or drain of, **or associated with**, a mine,

(c) destroy, damage or render useless any equipment, building, road or bridge belonging to **or associated with a mine**, or

(d) hinder the working of equipment belonging to **or associated with a mine**,

The word 'mine' was not previously defined. It will now include:

(a) a place at which gas or other petroleum is extracted from the ground, or

(b) a place at which exploration for minerals, or for gas or other petroleum, is undertaken by mechanical means that disturb the ground, or

(c) a place at which works are being carried out to enable the extraction of minerals, or of gas or other

petroleum, from the ground, or

(d) a former mine at which works are being carried out to decommission the mine or make it safe.

Protesters who lock onto machinery are most likely to be charged with offences under 201(d).

For an offence under section 201(d) police would be required to prove beyond reasonable doubt that at the specified date and time, a person:

(a) Intentionally or recklessly did an act

AND

(b) That act 'hindered the working of any 'equipment'

AND

(c) That 'equipment', 'belonged to' or was 'associated with' a mine.

This means that if a person locks onto equipment 'associated with' a mine or CSG site or blocks a truck from entering or exiting a mine or CSG site, they could be guilty of this offence.

I hope this is helpful. Please do not hesitate to contact me if you have any further questions.

Kind regards



Kira Levin | Solicitor | EDO NSW

Level 5, 263 Clarence Street, Sydney NSW 2000 AUSTRALIA

T: [+61 2 9262 6989](tel:+61292626989) | M: 0438 455 157 | F: [+61 2 9264 2414](tel:+61292642414)

E: kira.levin@edonsw.org.au

W: www.edonsw.org.au

DONATE – you can support EDO NSW by making a tax deductible donation through Give Now.

This email and any attachments are confidential. If you are not the intended recipient you must not disseminate, distribute or copy it. If you have received this email by mistake please notify us immediately at edonsw@edonsw.org.au and delete this email.

EDO NSW recognises the traditional owners and custodians of the land, seas and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander elders past and present, and aspire to learn from traditional knowledge and customs so that, together, we can protect our environment and cultural heritage through law.