



Land classification in Tasmania — A guide for explorers (Revision 1)

by C. A. BACON

INTRODUCTION

The major Acts under which Crown Land may be reserved in Tasmania are:

- National Parks & Wildlife Act 1970
- Aboriginal Relics Act 1975
- Crown Lands Act 1976
- Forestry Act 1920
- Public Land (Administration and Forests) Act 1991
- Mining Act 1929

Under each of these Acts land may be excluded from the auspices of the *Mining Act, 1929*. In practical terms this means land excluded from the operation of the Mining Act is not available for mining or exploration. In addition, the Department of Mines may enter into agreement with an Agency to exclude certain lands from mining tenements without this land being excluded formally from the Mining Act. An example of this is the agreement between the Department and the Hydro-Electric Commission whereby land vested in the HEC by the *HEC Act 1944* remains subject to the Mining Act but certain parts (around dams etc.) are excluded from mining tenements.

Another (unique) example is the Department's agreement with the National Trust to exclude a National Trust Classified Historical Site at Derby from any mining tenement application.

There are additional categories of land not covered by these Acts, such as Private Property and Commonwealth land.

Private Property

This is available for exploration, provided certain protocols are followed. Landowners may object to the issue of an exploration licence over their land and the objection will be heard by a Warden of Mines. Having ownership of the land does not, in itself, constitute a reason for the EL to be disallowed.

A private property bond is held by the Department of Mines to ensure landowners are compensated for any damage not made good by the explorer.

Explorers must give landowners notice in writing three days prior to entry on to the property.

Commonwealth Land

This is excluded from Exploration Licences. This includes, for example, land around lighthouses, Telecom installations (all small areas), as well as the Stony Head Artillery Range and the Buckland Military Training Area.

SHAPE OF EXPLORATION LICENCES

One of the most confusing features relating to exploration licences is the fact that a licence, in plan, may **appear** to cover a certain patch of land. Exploration licences must be marked out on the AMG metric grid in square kilometres for ease of drafting. The plan may cover some 'excluded' ground which will be specified as such in the written licence document. Explorers are now provided with a small piece of chart showing exclusions, but these are not routinely charted on the Department's licence charts, as most charts are of a scale not suited to showing many small exclusions and these are best noted by description.

MINING ACT 1929

Administered by: Department of Mines

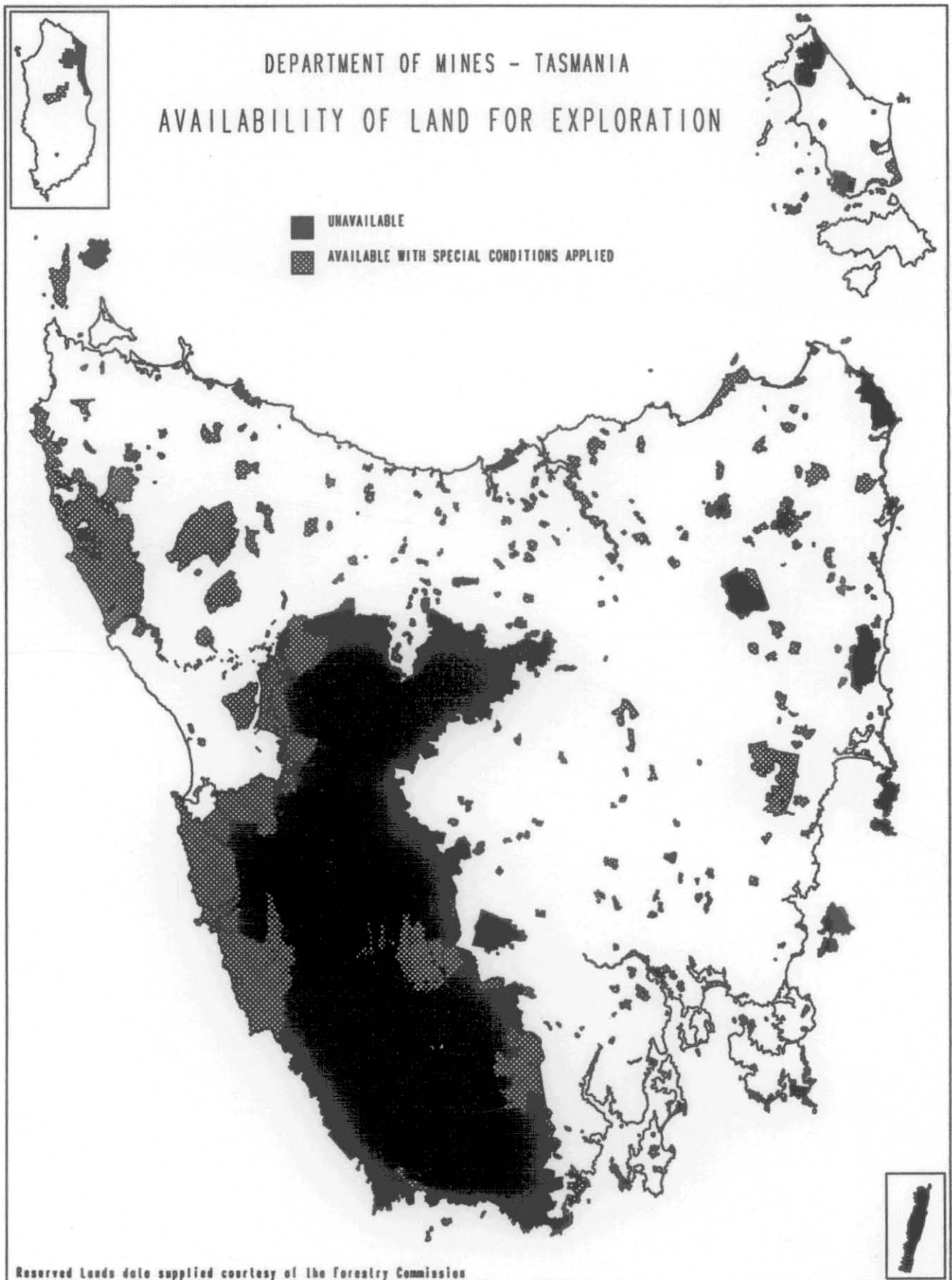
On-ground Manager: Various

Existing Mining Tenements

Existing mining leases, water licences, easement licences, exploration licences, retention licences, prospectors licences, authority to prospect permits, miners rights, permits to enter, owners consents and owners rights are **EXCLUDED** from exploration licence applications.

Exempt Areas

Areas may be declared 'Exempt' from the Mining Act to allow the Department of Mines to carry out geological investigations. These are not generally available for exploration, but access for some work will be considered by the Department.



Licences Over Same Area

Two exploration licences can be held over the same piece of ground for different commodities, e.g. coal and all minerals.

The applicant is provided with a piece of chart showing these exclusions, or areas of overlap with another licence.

Fossicking Areas

At present these have no special status but will probably be declared under the new Mining Act. In the interim these areas (which extend from the land surface to 2 m depth) will be excluded from EL applications. The explorer will be permitted to examine the area in the same way as are the fossickers. Surface access for drilling may be considered on a case-by-case basis. No mechanical excavations (trenching, costeaning) will be permitted.

NATIONAL PARKS & WILDLIFE ACT 1970

Administered by: Parks, Wildlife and Heritage

On-ground Manager: Parks, Wildlife and Heritage

Land may be reserved as either a State Reserve, a Conservation Area, or a Game Reserve.

State Reserves (SR)

Land having the status of State Reserve is exempt from the Mining Act for all intents and purposes. Exploration and mining can only occur in a State Reserve if the activity is authorised in a management plan which has passed both Houses of Parliament. The exception to this is where a State Reserve is declared over an existing mining tenement.

State Reserves include land known as:

- State Reserve
- National Park
- Historic Site
- Nature Reserve
- Aboriginal Site

Where SR declared over existing tenement

There are a number of examples where a State Reserve has been declared over an existing mining tenement. In these cases the tenement holder retains a "private right" under the *National Parks and Wildlife Act 1970*, which allows for the continuance of such rights and privileges as were in existence before the Reserve was declared.

Current examples are:

EL 45/86 King Island

An extension to the Lavinia Nature Reserve was declared over part of this tenement in 1988. The licence holder is entitled to continue exploration under the same terms and conditions as were in force prior to the declaration of the Nature Reserve extension. However, mining could only proceed if this activity was provided for in a management plan.

ML 69M/81 Lune River

Mining Lease 69M/81 covers 487 ha and includes Benders Quarry. Around 350 ha of the lease are now included in the South West National Park, and an area of 77 ha is now known as the Marble Hill Conservation Area. Both these areas also have World Heritage status. The lessee retains a "private right" to continue quarry operations under the *National Parks and Wildlife Act 1970*. This particular operation is complicated further by the World Heritage status, as the Federal Government has powers under this Act (See section on World Heritage).

RL 879, 8710, 8711 Douglas-Apsley

These retention licences pre-date the Douglas-Apsley National Park and are held for coal. The tenement holder retains the right to explore on these licences.

Game Reserve

These are exempt from the provisions of the *Mining Act 1929*.

Conservation Areas (CA)

These are automatically subject to the auspices of the *Mining Act, 1929*, unless arrangements are made otherwise. For example, the Central Plateau Conservation Area (CPCA) was declared over part of the Central Plateau Protected Area (CPPA) and the area of overlap is unavailable for exploration. The CPCA is included in the World Heritage Area (WHA).

In most cases exploration can proceed, under strict environmental guidelines. Proposed work programmes for work in conservation areas (and other areas deemed to be sensitive) are sent to the Mineral Exploration Working Group (MEWG) for comment.

Conservation Areas (CA) include land known as:

- Conservation Area
- Wildlife Sanctuary (WS): these are usually excluded from ELs by agreement with the applicant. The Portland WS has a management plan which specifically prohibits exploration.
- Mutton Bird Reserve: also usually excluded from EL applications by agreement with the applicant.

ABORIGINAL RELICS ACT 1976

Administered by: Parks, Wildlife and Heritage

On-ground Manager: Parks, Wildlife and Heritage

Land reserved under this Act as Protected Archaeological Sites is removed from the auspices of the *Mining Act, 1929* and is not included in mining tenements.

CROWN LANDS ACT 1976

Administered by: Department of Environment & Planning

On-ground Manager: Parks, Wildlife and Heritage

Land is reserved under this Act for a multitude of purposes; some categories are exempt from the Mining Act whilst others are not.

Public and municipal reserves declared under this Act are **exempt** from the *Mining Act, 1929* unless they are specifically 'brought back' under the auspices of the Act, either at the time of reservation or later on. For any of these reserves to be 'brought back' under the Mining Act the explorer will have to present a convincing case as to why the ground is required.

The Act is **administered** by the Department of Environment and Planning but all on-ground management is done by the staff of the Department of Parks, Wildlife and Heritage. Land reserved under the Crown Lands Act and **EXCLUDED** from exploration licences is as follows:

- State Recreation Areas
- Coastal Reserves
- River Reserves
- Lakeside Reserves
- Some roadways (such as highways)
- Crown Reserves for conservation purposes, e.g. Mt Nelson Signal Station and Truganinni Reserve, etc.
- Crown Reserves such as cemeteries
- Crown Reserves for construction materials and water, (e.g. Crown ballast pits, quarry reserves, water reserves, etc.)
- Protected Area. Protected areas are exempt when first declared; if not brought back under the Act the land remains excluded from an EL.

In many areas strips of land along the margins of rivers and lakes and on coastlines have been reserved by the Crown, so as to retain access to the foreshore, beach, lake or river. On old charts these strips of land, commonly one chain (20.1 m) or one hundred feet (30.5 m) wide are shown as 'Crown Reservations'. These are subject to the auspices of the *Mining Act 1929*.

On modern Lands Department maps some of these areas are shown as 'Coastal Reserves' and in some cases (e.g. Ocean Beach) signs have been erected stating 'Coastal Reserve', although the land does not, in all cases, have any formal reserve status. Reserves can only exist officially if gazetted or established under existing legislation or regulations; otherwise these are known as 'notary' reserves, and are included in land available for exploration.

Coastal reserves can be established by proclamation or by Crown Land Order under the *Crown Lands Act 1976* and also by S473A of the *Local Government Act 1962*, which requires land to be set aside for public use when subdivisions are created.

Formal public reserves created by these means are exempt from the provisions of the Mining Act for a depth of 15 metres. Where coastal areas are included in EL applications the Department of Mines has an informal agreement with the Department of Environment and Planning that access to these areas will be subject to that Department's approval. This is noted on licence documentation. In addition, where coastal land is being managed for conservation purposes (e.g. bird nesting sites, penguin habitats, etc.) but there is no formal reserve, parts may still be excluded from applications.

Land generally **INCLUDED** in Exploration Licences under the *Crown Lands Act 1976*:

- unallocated Crown Land
- Protected Area (provided it has been brought back under the Act) e.g. the Arthur Pieman Protected Area, Waterhouse Protected Area, part of Central Plateau Protected Area not overlapped by Central Plateau Conservation Area.

PUBLIC LAND (ADMINISTRATION AND FORESTS) ACT 1991; FORESTRY ACT 1920

Administered by: Forestry Commission

On-ground Manager: Forestry Commission

Most land managed by the Forestry Commission is available for exploration.

State Forest

This is included in exploration licences. Most State Forest is Crown Land dedicated as State Forest, but the Commission does purchase land and has this dedicated as State Forest. These are, in effect, private property blocks owned by the Forestry Commission.

Timber Reserves

Used to be included in exploration licences but have been abolished, and are now ordinary State Forest.

Forest Reserves

These are set aside for conservation or recreational purposes and when declared are exempt from the Mining Act. If a case is made a Reserve may be brought back under

the Act by agreement with the Forestry Commission. At this point in time only the Teepookana and Mt Maurice Forest Reserves have been brought back under the Act; all others are excluded from exploration licences. The Mt Victoria Forest Reserve has a management plan which states that the area can be brought back under the Mining Act if required for exploration.

The *Public Land (Administration and Forests) Act 1991* introduced more categories:

Multiple Use Forest Land

This is ordinary State Forest, available for exploration. All the former unallocated Crown Land in these zones is now State Forest.

Deferred Forest Land

Some land has been placed on a Register of Deferred Forest. This does not involve any change in tenure. Some Deferred Forest is State Forest, some is unallocated Crown Land. All is available for exploration. Activities involving earthworks will be sent to the MEWG for comment.

RAPs (Recommended Areas for Protection)

These are areas of either State Forest or unallocated Crown Land chosen as representative areas of different forest communities. Some RAPs are within existing Conservation Areas. The remaining RAPs have been classed as either 'resolved' or 'unresolved'. 'Resolved' means Government agencies are agreed on a tenure which may, at some future time, be declared over the RAP. Most of the agreed tenures are Conservation Area, Forest Reserve, Forest Reserve subject to the *Mining Act 1929*, and a few very small State Reserves. Proposed activities involving earthworks in all RAPs will be sent to the MEWG for comment. The purpose of the RAPs is to preserve representative portions of all forest types. Other activities are not automatically incompatible with this aim.

HEC ACT 1944

Administered by: Hydro-Electric Commission

On-ground Manager: Hydro-Electric Commission

Most land vested in the HEC is subject to the *Mining Act, 1929*. However the Department has had a long-standing arrangement with the HEC to exclude from mining tenements, land around dams, work sites and power lines. However, this does not mean exploration cannot proceed. The HEC will examine each proposal (for drilling, etc.) on a case-by-case basis and may permit exploration activities which will not affect dam structures, etc.

The remainder of HEC-vested land is included in mining tenements and the Department of Mines is the Agency responsible for giving out exploration approvals, with appropriate conditions. On HEC land one condition will be to keep the HEC fully informed of any activities.

NATIONAL ESTATE

Land can be listed on the Register of the National Estate by the Australian Heritage Commission, using the *Australian Heritage Commission Act 1975*. The purpose of the Register is to have an inventory of places or areas in Australia which are of significant heritage value.

Effects of Registration

The Register has a direct protective role **only** in relation to actions proposed by the **Commonwealth** which might adversely affect the National Estate.

There are no direct legal constraints on owners of private property, or on State or local governments, caused by the entry of that property in the Register of the National Estate. Thus the Commission has no power to direct private owners or State or local governments with respect to their actions that might affect a place in the Register.

The Act requires that Commonwealth Ministers and Commonwealth Authorities must "ensure that their own actions and those of their departments and authorities do not adversely affect the national estate values of places in the Register unless there are no feasible and prudent alternatives and, if there are no such alternatives, unless all reasonable measures are taken to minimise the effect. The Minister's action to achieve these ends must be consistent with any relevant laws".

Effect on Exploration

The Department of Mines keeps an up-to-date record of all National Estate nominations, interim listings and registered entries. Overlap with any interim listings or registered entries is recorded on each EL application. In approving exploration works the Department is mindful of the reasons given for the listing, and conditions placed on work may reflect the need for care in/on a particular site. The fact that a place is listed does not in any way delay the assessment of exploration proposals.

WORLD HERITAGE

Land classed as 'World Heritage' is done so by the Commonwealth Government using the *World Heritage Properties Conservation Act 1975*. This is not a land use, as such. Most of the land classed as World Heritage in Tasmania is also National Park, and so is not open for exploration.

The World Heritage area also covers three Forest Reserves and three Conservation Areas.

The Forest Reserves, which also have the dual status of Conservation Area, are:

- Liffey Forest Reserve
- Drys Bluff Forest Reserve
- Meander Forest Reserve

These Forest Reserves have Management Plans which confirm that these areas are not available for exploration and mining and will not be brought back under the Mining Act.

The three Conservation areas are:

- *Marble Hill Conservation Area:* over Bender's Limestone Quarry, Lune River and entirely covered by ML 69M/81.
- *Adamsfield Conservation area:* Adamsfield, in which exploration is allowed. Exploration works are assessed by the Department of Parks, Wildlife and Heritage and the Department of Mines, and if the planned work is extensive the proposal will be referred by the Department of Parks, Wildlife and Heritage to the WHA Standing Committee and possibly to the WHA Ministerial Council.

- *Central Plateau Conservation Area:* this covers part of the Central Plateau Protected Area, and is not available for exploration.

The Commonwealth Government has a significant input into the management of the WHA and provides funds for this purpose. Any area can, theoretically, be proclaimed a 'property' to which Section 9 of the World Heritage Conservation Act applies. The application of 'Section 9' would require that "except with the consent in writing of the (Federal) Minister it is unlawful ... to carry out operations for, or for exploratory drilling in connection with the recovery of minerals on any property to which this section applies". If this happens, the Commonwealth are not legally obliged to compensate the explorer/developer.

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