



**NSW  
Resources  
Regulator**

# **OVERVIEW OF THE NSW RESOURCES REGULATOR**



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**AMENDMENT SCHEDULE**

Date	Version	Amendment
May 2019	1	
August 2019	2	Amendments pertaining to the organisational structure

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 2019). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the NSW Department of Planning, Industry and Environment or the user's independent advisor.

## Foreword

The mining, petroleum and extractive industry plays a pivotal role in helping to deliver on the NSW Priorities, by helping to grow the economy and contribute to employment generation – especially in regional areas.

The annual value of NSW's mining production is around \$20 billion, with around \$2 billion paid in royalties each year, which is used to fund infrastructure and services for the benefit of all people in NSW. The industry is also a significant employer both directly and indirectly through the provision of both mining and non-mining related services.

The coal industry supports about 80 per cent of the State's electricity supply requirements and the extractive and quarrying industry contributes greatly to construction and infrastructure projects. The strength and growth of the State relies heavily upon the continued development of the mining industry, particularly at a time when energy supply and security is a key concern and delivering infrastructure and growing the economy are priorities for the State.

Despite its economic and social importance, it is an industry with equally significant risks and responsibilities. Each year the NSW Resources Regulator receives and investigates hundreds of allegations of mining related non-compliance. We also receive around 2,000 reports of safety incidents at mines annually. Of these, a small percentage relate to serious injuries or illness of workers. Of concern are the small numbers (around two<sup>1</sup> annually) of work related deaths that occur at NSW mine sites.

Globally, there is a long history of catastrophic mining incidents caused by complacency, carelessness and cutting corners, both on the part of industry and those tasked with regulating it. Pike River, Upper Big Branch, Gretley, Northparkes and Moura No 2 are all stark reminders of the need for industry and the Regulator to stay vigilant and responsive. There are also many examples of the environmental harm that mining can cause if not appropriately managed or controlled.

Historically, NSW has experienced instances where people obtained authorisations to extract the State's precious mineral resources but were later found to be unfit to do so, or to have acted improperly. The Government and the community demand a strong regulator that will take decisive action to ensure the integrity of the industry and those who operate within it. Importantly these concerns extend to post-mining activities, and the appropriate rehabilitation of the land, which is of importance as many more mines approach the end of their operations.

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<sup>1</sup> Based on five workplace, work-related deaths for the period July 2016 to January 2019.

Further, as resource recovery becomes more complex, new technologies emerge, and commodity prices fluctuate, we must strive to challenge historical ways of thinking, the status quo, and the normalisation of risks. Resources must be allocated efficiently, through a risk-based, intelligence-led, and outcomes-focused framework. Innovation must not be stifled and regulatory burden should be removed where possible.

NSW has a strong regulatory framework and through an integrated and holistic regulatory approach the Regulator will seek to promote, and where necessary, enforce compliance.

By focusing on business improvement through a unified and integrated regulatory approach; and leveraging off strong industry engagement and partnerships, we can deliver on our mission to enable and support industry to understand and fulfil its obligations.

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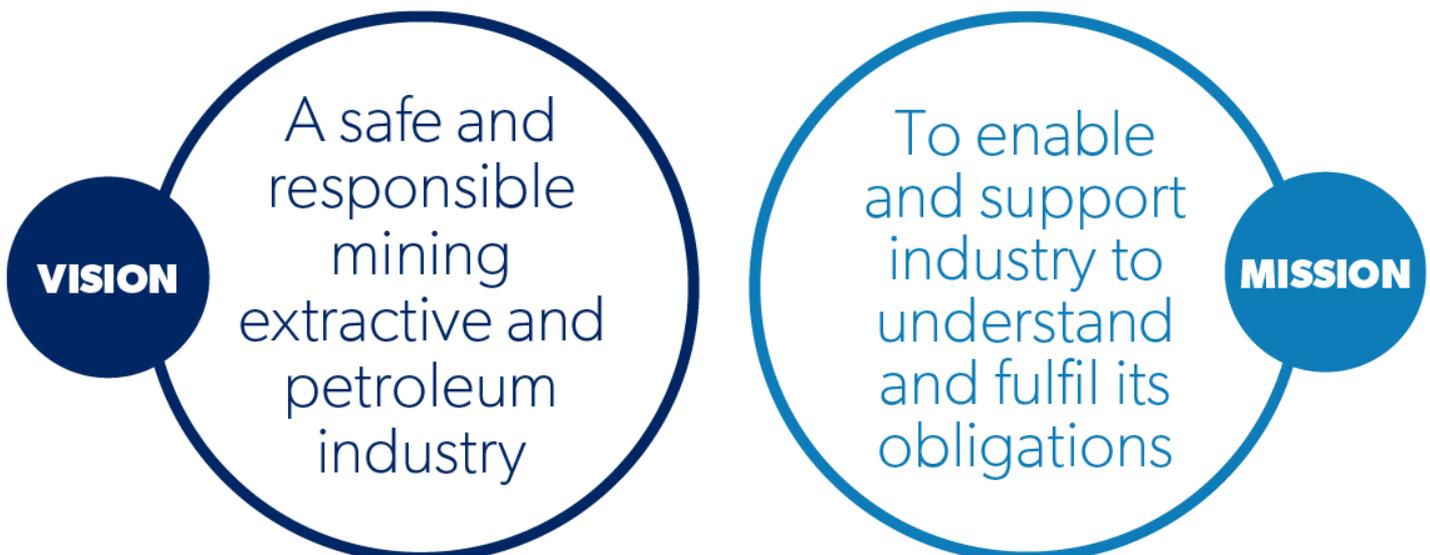
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## Overview

We are the State's work health and safety regulator for mines and petroleum sites. This includes open-cut and underground mines, petroleum sites, quarries and extractive operations, tourist mines, opal and other small-scale mines and mining exploration activities.

We also undertake compliance and enforcement activities in relation to the *Mining Act 1992*, with a key focus on mine rehabilitation. We were established on 1 July 2016 as a standalone regulator. We:

- receive and consider complaints, safety incident notifications
- provide information and guidance about safety and other regulatory obligations to protect and support industry, workers, the community and the state
- conduct inspections and investigations
- assess licensing, registration applications and grants applications for occupational licences (practising certificates and certificates of competence)
- take enforcement action such as issuing prohibition and other statutory notices and taking prosecution action
- support and administer the NSW Mine Safety Advisory Council and NSW Mining and Petroleum Competence Board
- administer the mine and petroleum site safety fund (mine safety levy).



## Our objectives

We aim to:

- ensure a safe, sustainable and innovative mining, extractive and petroleum industry in NSW
- provide information and guidance about safety, environmental and other regulatory obligations to protect and support industry, workers, the community and the state
- promote confidence in how the industry is regulated
- make regulation transparent
- engage with and educate both industry and the community about best practice
- support industry to meet its regulatory obligations.



### **Increase**

stakeholder and community confidence in our compliance programs



### **Support**

the responsible operation and development of regulated industries



### **Minimise**

harm to workers, the environment and the community

## Legislation

When granted a right to explore for, extract, or produce minerals, duty holders are required to operate in accordance with certain standards and obligations. The obligations that are governed by the Regulator include:

- the *Mining Act 1992* and associated regulation
- work health and safety obligations contained in the following Acts (and associated regulations):
  - *Work Health and Safety (Mines and Petroleum Sites) Act 2013*
  - *Work Health and Safety Act 2011*
  - *Explosives Act 2003*
  - *Radiation Control Act 1990*

The Commonwealth, state and territory governments operate under harmonised work health and safety laws to improve work health and safety, provide consistent protection for Australian workers and reduce the regulatory burden.

In addition to the above, there are other obligations that we will be involved in, although governed by other agencies. This includes incidents notified to us under the obligations of other relevant legislation, for example the *Protection of Environment Operations Act 1997*.

## Offices and contact details



Our head office is located in Maitland, with inspectors and other staff located at key mining areas such as Wollongong, Orange, Lithgow, Cobar, Broken Hill, Armidale and Lightning Ridge.

The Mine Safety Technology Centre is located in a purpose-built facility at Thornton, between Newcastle and Maitland.

- Phone** 1300 814 609
- Email** [resources.regulator@planning.nsw.gov.au](mailto:resources.regulator@planning.nsw.gov.au)
- Post** PO Box 344 Hunter Region Mail Centre NSW 2310
- Office** 516 High St Maitland NSW 2320
- Web:** [resourcesregulator.nsw.gov.au](http://resourcesregulator.nsw.gov.au)



To report an incident or injury:

**1300 814 609**

## Organisational structure

The Regulator is positioned within the Department of Planning, Industry and Environment and comes under the responsibility of the Deputy Premier.

The Regulator is headed by an Executive Director who reports to the Coordinator-General - Environment, Energy & Science. The Executive Director is ultimately responsible for managing and controlling all the affairs of the Regulator and providing strategic direction and oversight.

The Chief Inspector leads the mine safety compliance and enforcement activities of the Regulator and provides expert technical advice to the Executive Director in relation to mine safety.

The Executive Leadership team oversight the day-to-day operations of the Regulator to ensure the efficient delivery of diverse and complex regulatory activities and the provision of targeted policies and programs.

The Regulator has approximately 200 staff across five key functional areas:



## Regulatory operations

The regulatory operations branch:

- undertakes communication and industry engagement activities
- develops strategies and provides expert advice to enable the Regulator to meet the highest standards in:
  - planning and corporate reporting
  - governance and risk management
  - probity and legal/statutory processes.

## Major safety investigations

The major investigations branch:

- undertakes investigations into complex, serious and high-risk safety matters, including workplace fatalities and serious injuries
- is responsible for facilitating and coordinating escalated enforcement actions, such as prosecutions and enforceable undertakings.

## Regulatory programs

The regulatory programs branch is responsible for:

- development, implementation and evaluation of strategic and operational policy activities and responses
- program evaluation and intelligence
- coordination of licensing activities.

## Mining Act inspectorate

The Mining Act inspectorate undertakes risk-based compliance and enforcement activities in relation to the Mining Act. This includes conducting:

- assessment activities and compliance activities in relation to mine rehabilitation activities and security deposits
- investigations in relation to failure to comply with obligations.

There are approximately 35 appointed Mining Act inspectors who are supported by a range of other administrative and technical staff.

## Mine safety inspectorate

The mine safety inspectorate is made up of:

- operational branch, that undertake frontline compliance and enforcement activities
- engineering branch, which provides expert technical advice and support.

Key responsibilities include:

- monitoring and enforcing compliance with the legislation
- providing advice and information on work health and safety matters
- supporting effective risk management
- promoting and supporting education and training on matters relating to work health and safety to duty holders and to the community
- engaging in, promoting and coordinating the sharing of information to enhance health and safety outcomes.

There are approximately 80 appointed WHS inspectors who are supported by a range of other administrative and technical staff.

## Governance framework

Our compliance and enforcement activities are undertaken within a strict governance framework to ensure efficient and effective allocation of resources and adherence to Departmental policies and procedures.

Our approach to compliance and our regulatory responsibilities are documented in the following:

- [Strategic approach 2017-2020](#)
- [Compliance and enforcement approach](#)
- [Causal investigation policy](#)
- [Prosecution guidelines](#)
- [Enforceable undertaking guidelines](#)
- [Public comment policy](#)

We publish monthly business activity reports, designed to provide industry with greater visibility in relation to our regulatory approach and boost community and industry confidence in the approach used by us to manage non-compliance issues.

We also publish:

- the details of all prosecutions and enforceable undertakings
- safety investigation reports setting out the findings, cause and circumstances of serious incidents
- incident information releases which provide early learnings to assist in the prevention of similar incidents
- weekly incident summaries to assist industry decision making
- safety alerts and bulletins to inform industry and stakeholders of events that have occurred with the aim of preventing similar occurrences.

In addition to these overarching policies and guidelines, we have a number of oversighting processes and committees to ensure the consistency, transparency and accountability of our regulatory actions. In particular, decisions around when and how to deal with allegations of non-compliance and enforcement actions arising from formal investigations are handled by specific governance committees in relation to WHS and Mining Act matters.

## How we segment the industry



## Funding

We are fully funded from the Mine Safety Levy and Administrative Levy.

### Mine Safety Levy

The *Mine Safety (Cost Recovery) Act 2005* establishes the Mine Safety Fund. The contributions to the fund by mining industry employers are commonly referred to as the Mine Safety Levy. The levy funds health and safety regulation of the State's mining workplaces and is charged to employers in the mining industry who have obligations under mine safety legislation for the health and safety of workers. The levy is collected by the worker's compensation insurers of mining industry employers.

Under the legislation, the fund may only be used to meet specified expenses incurred by us in carrying out:

- regulatory activities connected with mine safety legislation, the *Explosives Act 2003* and *Radiation Control Act 1990*
- expenses incurred in the administration or execution of the mine safety legislation
- administrative expenses related to the fund.

Under the Act, we must publish an annual [report](#) that provides an overview of payments made from the fund.

### Administrative Levy

An administrative levy is payable annually on all titles under Part 14A Division 4 of the *Mining Act 1992* and Part 7A Division 5 of the *Petroleum (Onshore) Act 1991*.

The levy is used to fund minerals and petroleum administrative costs and is also used to rehabilitate abandoned mine sites through the Derelict Mines Program.

The levy is equivalent to one percent of the rehabilitation security deposit provided by titleholders. The minimum charge is \$100.