



Environment Protection Authority

# NSW Coal Mine Consultation Summary Report

December 2024



A vertical decorative bar on the left side of the page, featuring intricate Aboriginal patterns in shades of blue and white. The patterns include concentric circles, wavy lines, and geometric shapes, typical of traditional Indigenous art.

# Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

Aboriginal artwork by Worimi artist Gerard Black

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# Summary

The Environment Protection Authority (EPA) publicly consulted with stakeholders and the community on the regulation of coal mines in NSW. This report summarises the consultation process and feedback we received. The report includes a summary of submissions and survey results, as well as details of other stakeholder engagement activities.

The EPA appreciates the time and thought people and organisations put into their submissions and feedback.

We are taking all responses into account. We will continue to consider how we can address community feedback and opportunities in our work when regulating the environmental impacts of coal mining.

The feedback will complement the statutory five-yearly reviews of coal mine environment protection licences, with most being undertaken in 2024.

# Our consultation

Consultation on the regulation of coal mines in NSW occurred over six weeks, from 21 August to 2 October 2024.

There were many opportunities for stakeholders to engage with the EPA. This included a dedicated mailbox for enquiries, the opportunity to complete an online survey or provide written feedback, and a community drop-in at Singleton.

The EPA held meetings with key stakeholders to explain the consultation process, and how feedback will be considered and used. These meetings gave stakeholders a chance to talk about the consultation and statutory licence review processes, ask questions and share any issues or concerns.

We set up a dedicated Have Your Say consultation webpage where the community and stakeholders could provide a written submission or complete an online survey. This opportunity was advertised via targeted emails, cross-promotion on the EPA's website, media coverage and social media.

As part of the consultation, stakeholders were asked a series of questions to gather feedback on several areas related to the regulation of coal mining in NSW. These questions focused on what the EPA should consider in its review of monitoring and reporting conditions for environment protection licences, and how these processes could be improved to increase community confidence. We also invited feedback on community access to information regarding coal mining activities, including what types of information should be made available.

Additionally, the EPA sought feedback on specific coal mines that individuals or groups wanted to address, as well as any considerations related to the EPA's *Climate Change Action Plan 2023–26*. These questions provided an opportunity for stakeholders to raise their views on how climate change initiatives could be integrated into the EPA's ongoing regulation of coal mining in NSW.

During the consultation period, the EPA received 421 submissions in total, including 334 written email submissions and 87 online surveys from individuals, community, environment groups, peak bodies and think tanks. Approximately 283 email submissions were submitted via [campaigns@good.do](mailto:campaigns@good.do).

## Feedback and opportunities raised

We heard specific feedback and opportunities to consider for our regulation of coal mines in NSW. The EPA has considered all the feedback we received. The consultation also helped us gain a deeper understanding of the community's key concerns and priorities for our ongoing regulation of the industry.

Key sentiment and suggestions included the following:

- Dust and diesel emissions from coal mines, particularly those in the Hunter Valley, are a concern. Overarching sentiment included support to improve the regulation of dust from mines and impose conditions on licences to reduce emissions from non-road diesel engines.

- Coal mine licences should include strong mandatory and enforceable greenhouse gas conditions. Overarching sentiment included calls for licences to include emission limits and targets, and require monitoring for greenhouse gases, in particular methane.
- There was general support for a requirement for climate change mitigation and adaptation plans be added to the coal mining licences. This included support for plans to be made publicly available and actions to be further strengthened through monitoring, enforcement and reviews of climate change mitigation and adaptation plans.
- The feedback we received requested consistent concentration limits for discharges from mines to protect waterways, with a preference for no discharges, and a review of water management structures to assess their ability to withstand climate extremes.
- Concerns were raised regarding the funding and staging of rehabilitation at mines, and a lack of post-closure monitoring and reporting requirements. Concerns were also raised that waste management at coal mines should be improved.
- More access to pollution monitoring data presented in a meaningful way to satisfy the community's right to know and improved transparency of monitoring and reporting information for the community. A key sentiment from individuals, community and environment groups was that they wanted easy access to more data and information, to improve understanding of an operator's environmental performance.
- The 'polluter pays' principle and environmental protection should be strengthened by rigorously enforcing pollution limits, with strict penalties applied for breaches.

## Consideration of feedback

In considering the feedback, the EPA will engage with coal mine operators to examine opportunities to make improvements to licences. This will be an ongoing process, with a series of short, medium and long-term licence variations being considered. Any changes to coal mine licences will be reflected on the EPA's public register.

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## Changes to coal mine licences

The EPA will consider the following changes to coal mine licences across the NSW coal mining sector:

- reviewing and improving dust monitoring conditions
- US EPA Tier 4 emissions standards for new non-road diesel vehicles
- varying licences to deliver actions under the EPA's *Climate Change Action Plan 2023–26* over time, noting that initially this will include reporting on greenhouse gas emissions
- improving monitoring, reporting and public access to information
- administrative changes to the licences to increase readability and achieve consistency across the sector where appropriate.

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# The EPA's response to key issues raised in feedback

## Air emissions

Stakeholders raised matters regarding air emissions from coal mines, with support to improve the regulation of dust from mines and impose conditions on licences to reduce emissions from non-road diesel engines.

Within the EPA regulation of coal mines, dust management is a priority as it is vital for both the protection of the environment and human health. The EPA undertakes to review and improve licensing conditions regarding dust.

Air quality in NSW remains good by global standards. There is a wide network of ambient air quality monitoring stations, particularly in areas of concern like the Upper Hunter. We acknowledge calls to broaden air quality monitoring within the community and will investigate initiatives to establish community-based particle monitoring in the Muswellbrook and Singleton local government areas where there is a concentration of large open-cut mines close to populated areas.

Feedback provided also expressed concerns regarding diesel emissions from coal mining activities, with broad support to impose conditions on licences to reduce emissions from non-road diesel engines used at mines. The EPA will consider varying licences to require US EPA Tier 4 emissions standards for new non-road diesel vehicles.

On 21 February 2022 the NSW Government released the Clean Air Strategy 2021–30 (the Strategy). This presents a whole-of-government approach to improving air quality and protecting communities. It aims to support livable communities, healthy environments and the NSW economy by reducing the adverse effects of air pollution on human health.

The Strategy sets out the five priority areas where the biggest gains can be made for air quality and health. These include better preparedness for pollution events; cleaner industry; cleaner transport (which includes an action to drive emissions reductions from non-road diesel vehicles and equipment); better engines and fuels; and healthier homes and better places. The actions in the Strategy are strongly grounded in health, scientific and economic evidence on where we can achieve the greatest benefits. The actions will help to address concerns raised as part of this consultation. The [Strategy](#) itself, and more information about it, is on the website of the Department of Climate Change, Energy, the Environment and Water.

## Greenhouse gases (GHG) and climate change

Stakeholders expressed concerns regarding the regulation of greenhouse gases (GHGs) and climate change. Key issues included monitoring fugitive emissions such as methane, carbon dioxide, and diesel emissions, and an assessment of the capability of mines to withstand extreme weather events.

In 2023 the EPA released its *Climate Change Policy* (Policy) and *Climate Change Action Plan 2023–26* (Action Plan). This adopts, supports and builds on the foundations set by the NSW Government. These foundations include the NSW Climate Change Policy Framework, the Net Zero Plan, Climate Change Adaptation Strategy, the NSW Electricity Infrastructure Roadmap, and various supporting policies and strategies. The EPA Policy and Action Plan are consistent with the principles, objectives and targets in the *Climate Change (Net Zero Future) Act 2023*.

The EPA supports licensees to take action to decarbonise and build resilience to climate change.

We are currently progressing several actions under our Action Plan that will affect existing licensees over time. These actions include (but are not limited to):

- progressively requiring and supporting licensees to prepare, implement and report on Climate Change Mitigation and Adaptation Plans
- progressively placing climate change-related requirements on licences for key industry sectors (aligning with and complementing the Commonwealth Government’s National Greenhouse and Energy Reporting Scheme and the Safeguard Mechanism), including the potential for enhanced monitoring and reporting requirements for key sectors and the possible requirement to contribute to area-based monitoring networks
- developing greenhouse gas mitigation guidance for the coal mining sector.

The EPA is implementing these actions in a staged, progressive and iterative manner, allowing time for licensees to adjust, and for data to inform what actions must be taken and where.

## Water

Stakeholders raised water management in coal mining, particularly around discharge impacts and limits, as a key area of interest.

The EPA aims for consistency in its licensing approach across each industry sector; however, this is not always possible. We consider various matters such as differences in the nature of activities undertaken and their pollutions controls; likely pollutants of concern, their concentrations and loads; the receiving environment and its environmental values; and local impacts and conditions to determine what site-specific conditions are required.

Through the planning process the EPA will consider the environmental impact assessments that are provided and take an evidence-based approach to the setting of discharge limits. The *Protection of the Environment Operations Act 1997* requires we review licences at least every five-years, and in doing so review the appropriateness of licence conditions, including concentration limits, to ensure the protection of the environment.

## Waste management of tyres

Feedback provided included concerns regarding the practice of burying waste heavy-plant tyres at coal mines.

The EPA recognises that the practice of burying waste heavy-plant tyres at various coal mines has arisen from a lack of viable alternative options. The EPA is taking a stewardship approach to this issue to explore options with all stakeholders to better manage end-of-life tyres.

## Contamination and remediation

Stakeholders raised concerns regarding the need for funded rehabilitation plans for coal mining sites. Stakeholders expressed views that there’s a lack of post-closure monitoring and conditions to ensure long-term environmental protection. We recognise and understand the importance of addressing contamination risks and ensuring effective site rehabilitation after mining operations cease.

The NSW Government has strong laws in place to ensure that all land used for mining is rehabilitated for the benefit of future generations. Mining companies have extensive mine rehabilitation obligations across the life cycle of a mine, from planning through to mine closure and



beyond. The NSW Department of Planning, Housing and Infrastructure, and the NSW Resources Regulator, are the lead agencies concerned with the rehabilitation of coal mines in NSW.

## Noise

The impacts of infrasound and low-frequency noise from coal mining activities were raised during the consultation. Additionally, there were suggestions to expand the definition of 'sensitive receivers' to include a broader range of affected groups or locations.

The EPA is committed to using research, advanced technologies and regulatory powers to manage noise and vibration impacts. We implement a consistent and transparent framework for setting noise limits in environment protection licences and guide industries on best practices to minimise noise pollution. We also support innovative strategies to reduce noise, ensuring that noise management remains aligned with evolving best practices and regulatory standards.

## Monitoring

The need for independent monitoring of coal mining activities, and the auditing of monitoring results, was raised by some stakeholders. It was noted there needs to be greater transparency and accountability in the monitoring processes to ensure accurate reporting of environmental impacts.

Coal mines are required to meet strict monitoring and reporting conditions and publicly report on monitoring data as required in their licence. We want to ensure monitoring data is accessible and it increases community understanding of a licensee's activities.

Monitoring enables the EPA to know if a licensee is complying with its legal obligations, allows a licensee to demonstrate compliance to the EPA and their community and provides community with information on a licensee's activities.

Each coal mine is required to monitor, by sampling and obtaining results by analysis, the concentration of each pollutant specified in their licence, in accordance with the EPA's *Approved methods for the sampling and analysis of air pollutants in NSW* and *Approved methods for the sampling and analysis of water pollutants in NSW*.

The EPA carries out an ongoing compliance audit program, which includes audits programs on industry sectors and activities, and focused audits on individual sites. The EPA will consider including such audits as part of our compliance audit program.

## Reporting

Stakeholders suggested the need to improve public access to monitoring data, make reporting data easier to access and understand, and ensure transparency around breaches of legislation and environmental incidents. These concerns reflect an interest in more visibility into the environmental performance of coal mining operations.

We currently require coal mine operators to make their monitoring data publicly available on their websites in accordance with section 66(6) of the *Protection of the Environment Operations Act 1997* and with the EPA's requirements for publishing pollution monitoring data. Coal mine operators must either make their pollution monitoring data available in a prominent location on their website or provide the pollution monitoring data at no charge to members of the public who request it in writing.

Acknowledging community feedback, the EPA will engage with coal mine licensees to review their publishing of monitoring data and how it is presented to make data more readily accessible and meaningful to the public.

Regarding environmental incidents, licensees are required under Part 5.7 of the *Protection of the Environment Operations Act 1997* to notify the EPA immediately of any incidents that cause or threaten material harm to the environment. All breaches of environmental legislation are reported annually in a licensee's 'annual return'. The EPA's POEO Public Register provides a summary of information provided in annual returns, including reported non-compliances. The public can also use the EPA's POEO Public Register to search for environment protection notices issued by the EPA, convictions, civil proceedings, enforceable undertakings and penalty notices.

## **Regulatory approach, compliance and enforcement**

The feedback we received included calls for statewide consistency across coal mine licences, including increased penalties for non-compliances and stronger regulatory action by the EPA.

We have a strong commitment to protecting human health and the environment, as outlined in the *Protection of the Environment Administration Act 1991*, the *Protection of the Environment Operations Act 1997* and the EPA's *Strategic Plan 2024–29*. We maintain a strong focus on compliance and enforcement. Our regulatory actions are guided by our *Regulatory Policy* and *Prosecution Guidelines*, and details of regulatory action are publicly listed on the POEO Public Register and summarised in our annual reports.

In April 2024, the NSW Parliament passed legislation to strengthen penalties for environmental offences and the EPA's powers to deter repeat offenders and make polluters pay. The amendments included:

- doubling maximum penalties for Tier 1 serious offences to \$10 million for companies and \$2 million for individuals
- More than doubling on-the-spot fine amounts for certain Tier 3 offences to \$30,000 for companies for a first offence and \$45,000 for a second offence. For individuals this will be \$15,000 for a first offence and \$22,500 for a second offence.

The EPA strives for consistency in its regulatory approach. We recognise that each coal mine is different, including its proximity to residents and community and the sensitivity of the receiving environment. We tailor licences to ensure operations at coal mines provide for the protection of human health and the environment. We are undertaking work to examine opportunities for improving the consistency of coal mine licences to ensure key issues are strategically managed and addressed.

## **Community and stakeholder engagement**

Stakeholders proposed greater consultation when licences are varied and more active engagement from coal mines with the community and stakeholders, particularly during pollution events. We recognise this reflects a desire for even greater transparency and involvement in decision-making processes that affect local communities and the environment.

The EPA acknowledges these concerns and recognises the value in meaningful stakeholder engagement, especially during critical moments like significant licence variations and environmental incidents. While specific responses to these issues are still under consideration, we're committed to proactive communication and consultation efforts with affected communities and ensuring that

stakeholders are informed and involved in key decisions related to coal mining operations and matters related to climate change.

## Beyond the scope of the consultation

The feedback provided included a range of issues and suggestions that were beyond the scope of the consultation on the EPA's regulation of coal mining in NSW, and beyond the regulatory responsibilities of the EPA. This included feedback expressing a need for a sector-wide plan to phase out coal mining, calls for an end to new coal mine approvals, the adoption of World Health Organisation air and water pollution benchmarks, and amendments to various policy and guideline documents.

Many agencies are involved in regulating different parts of mining and mining activities under different legislation. They collaborate to protect the environment and human health.

The EPA plays its role by issuing environment protection licences, which set specific limits and requirements for how mines must operate, monitor their impact and report their activities. The EPA also monitors compliance with conditions of the environment protection licence, the provisions of the *Protection of the Environment Operations Act 1997* and other regulations and legislation. The EPA website has information about which NSW Government agencies regulate specific aspects of mining.

## Next steps

The EPA will progressively engage with licensees and propose changes to the environment protection licences across the coal mining sector. We will continue engaging with individual NSW coal mine operators, examining feedback and pursuing opportunities raised as part of this review. Engagement with licensees will start in early 2025. All changes to environment protection licences will be reflected on the EPA's public register.

The EPA is committed to providing the community with up-to-date information about its regulation of coal mines. Coal mine licences and changes made to conditions of the licences are publicly available on the EPA's public register. We will publish regular updates about our regulation of coal mines on our website and engage further through ongoing community engagement activities, the Hunter Environment Advisory Group, and other relevant industry, advisory and public interest groups as we explore opportunities for the licences.



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