

1995—No. 335

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
STATE ENVIRONMENTAL PLANNING POLICY No. 45—  
PERMISSIBILITY OF MINING**

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Urban Affairs and Planning.

CRAIG KNOWLES MP  
Minister for Urban Affairs and Planning.

Sydney, 2 August 1995.

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**Citation**

1. This Policy may be cited as State Environmental Planning Policy No. 45—Permissibility of Mining.

**Aims, objectives etc.**

2. (1) This Policy aims:

- (a) to promote the economic development of the State; and
- (b) to facilitate the development of the State's natural resources; and
- (c) to facilitate the development of significant export-earning industries for the State; and
- (d) to create significant employment opportunities within the State; and
- (e) to make provision concerning:
  - (i) the circumstances in which mining may be permitted under environmental planning instruments; and

(ii) the determination of development applications for consent to carry out development for the purposes of mining.

(2) This Policy removes the effect of certain provisions in environmental planning instruments that might, in the absence of this Policy, be relevant to:

- (a) the determination of whether or not a proposed development for the purposes of mining is permissible with development consent (including provisions that might otherwise require a consent authority to be satisfied as to certain matters before determining that mining is permissible with development consent); and
- (b) the determination of development applications for consent to carry out development for the purposes of mining.

### **Definition**

3. In this Policy:

“**mining**” includes a mine and any form of mining, including surface mining (whether by open cut or any other method) and underground mining.

### **Land to which this Policy applies**

4. This Policy applies to the whole of the State.

### **Permissibility of mining**

5. (1) If mining is permissible on land with development consent in accordance with an environmental planning instrument if provisions of the instrument are satisfied, mining is permissible on that land with development consent without those provisions having to be satisfied and those provisions have no effect in determining whether or not mining is permissible on that land or to the determination of a development application for consent to carry out development for the purposes of mining on that land.

(2) Without limiting subclause (1), if mining is permissible on land with development consent in accordance with an environmental planning instrument if the consent authority is satisfied as to certain matters specified in the instrument, mining is permissible on that land with development consent without the consent authority having to be satisfied as to those specified matters.

### **Relationship to other environmental planning instruments**

6. In the event of an inconsistency between this Policy and another environmental planning instrument, this Policy prevails to the extent of the inconsistency.

**Development applications to which this Policy extends**

7. This Policy extends to a development application made but not finally determined before the commencement of this Policy.

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