



New South Wales

Mining Amendment (Miscellaneous) Regulation 2009

under the

Mining Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mining Act 1992*.

IAN MACDONALD, MLC
Minister for Mineral and Forest Resources

Explanatory note

The object of this Regulation is to amend the *Mining Regulation 2003*:

- (a) to prescribe that, in addition to a registered valuer, an Australian lawyer of at least 7 years' standing may carry out an inquiry and report in relation to an objection to an opal prospecting licence or a significant improvement claim, and
- (b) to prescribe that the person to whom any such inquiry and report is referred must take certain steps in carrying out the inquiry and report, and
- (c) to declare that certain activities in specified areas are taken not to be mining for the purposes of the *Mining Act 1992*, which will allow for the rehabilitation of abandoned mine sites in those areas.

This Regulation is made under the *Mining Act 1992*, including section 11A and clause 23B (1) of Schedule 1, and section 388 and Schedule 4 (the general regulation-making powers).

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Clause 1 Mining Amendment (Miscellaneous) Regulation 2009

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1 Name of Regulation

This Regulation is the *Mining Amendment (Miscellaneous) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Mining Regulation 2003**[1] Clause 36 Objections**

Omit clause 36 (2). Insert instead:

- (2) For the purposes of section 222 (4) of the Act, a person to whom the Director-General must refer any objection for inquiry and report must be:
 - (a) registered as a valuer under the *Valuers Act 2003*, or
 - (b) an Australian lawyer of at least 7 years' standing.

[2] Clauses 57A and 57B

Omit clause 57A. Insert instead:

57A Inquiry and report concerning significant improvement claim

- (1) For the purposes of clause 23B (1) of Schedule 1 to the Act, a person to whom the Director-General must refer any objection made under clause 23A of Schedule 1 to the Act for inquiry and report must be:
 - (a) registered as a valuer under the *Valuers Act 2003*, or
 - (b) an Australian lawyer of at least 7 years' standing.
- (2) A person to whom the Director-General has referred any such objection must, as soon as practicable, notify the landholder and the applicant who made the objection of the following:
 - (a) the name and contact details of the person,
 - (b) that the person has received the referral from the Director-General for the person's inquiry and report,
 - (c) that the person will take steps to reach agreement with the landholder on a particular time at which the person may inspect the improvement for the purpose of the inquiry,
 - (d) that a copy of the draft report will be made available to the landholder and the applicant.
- (3) As soon as practicable after reaching agreement on a time at which the person may inspect the improvement, the person must notify the applicant:
 - (a) of the date and time of the inspection, and
 - (b) if the landholder or the landholder's agent will be attending the inspection, that the applicant and any agent of the applicant may also attend the inspection.

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Schedule 1 Amendment of Mining Regulation 2003

- (4) If the person is unable to reach agreement with the landholder on a time at which the person may inspect the improvement, the person must, before preparing the draft report, provide the landholder and the applicant with a statement as to what steps have been taken to reach agreement to inspect the improvement and that agreement cannot be reached.
- (5) If, in the opinion of the person, the landholder unreasonably withholds consent to inspect the improvement, the person may declare that the improvement is not a significant improvement.
- (6) An inquiry referred to in this clause must be conducted in accordance with any guidelines approved by the Director-General.
- (7) At the conclusion of the inquiry into the objection, the person must:
 - (a) prepare a draft report, and
 - (b) send a copy of that report to the landholder and the applicant, and
 - (c) provide the landholder and the applicant with 14 days within which to make a written response to the draft report.
- (8) The person to whom the objection was referred must take into consideration any comments received in accordance with subclause (7) (c) when finalising the report to be submitted to the Minister.

57B Referral of significant improvement claims

- (1) A referral under clause 23B (1) of Schedule 1 to the Act must be made in writing and must include the following information:
 - (a) the name and contact details of the landholder,
 - (b) in the case of a claim relating to an application for a mining lease—the name and contact details of the applicant,
 - (c) a copy of the claim lodged by the landholder,
 - (d) a copy of the objection lodged by the applicant.
- (2) As soon as practicable after making the referral referred to in subclause (1), the Director-General must notify the landholder and the applicant, in writing, that the referral has been made.

[3] Schedule 5 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited

Insert in alphabetical order of name of site in Columns 1, 2 and 3 of Part 1, respectively:

Abermain No 2 Pit Top	Land within Werakata National Park adjoining Lot 260 DP 257594 off Caledonia Street Kearsley, Parish of Stanford, County of Northumberland.	350342 E 6363012 N (MGA 94 Zone 56)
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[4] Schedule 5, Part 2

Insert in alphabetical order of name of area in Columns 1, 2 and 3 of Part 2, respectively:

Aberdare East	Part Lot 566 DP 821172 Aberdare adjoining the South Maitland Railway leased to the Hunter Plant Operator Training School under Special Lease 192411, Parish of Cessnock, County of Northumberland.	347000 E 6364550 N (MGA Zone 56)
Hebburn No 3	Crown land in Parish Reserve DP 755259 within the granted ALC 4250 adjoining CML1 and Hebburn Road Abermain, Parish of Stanford, County of Northumberland.	353800 E 6364900 N (MGA 94 Zone 56)