

State Environmental Planning Policy No 45—Permissibility of Mining (1995 EPI 335)

[1995-335]



New South Wales

Status Information

Currency of version

Repealed version for 4 August 1995 to 15 February 2007 (accessed 18 July 2024 at 6:28)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Note**
On 6 March 1996, the Land and Environment Court of New South Wales in *Rosemount Estates Pty Limited and Anor v Minister for Urban Affairs and Planning and Anor* No 40140 of 1995 declared that “*State Environmental Planning Policy No. 45 Permissibility of Mining* is invalid”. The [State Environmental Planning \(Permissible Mining\) Act 1996 No 27](#) validated the Policy with effect from 4.8.1995 — see section 4 of that Act.
- **Repeal**
The Policy was repealed by cl 5 (1) (b) of the [State Environmental Planning Policy \(Mining, Petroleum Production and Extractive Industries\) 2007 \(65\)](#) (GG No 32 of 16.2.2007, p 857) with effect from 16.2.2007.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 16 February 2007

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1 Name of Policy

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

2 Aims, objectives etc

(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.

3 Definition

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.

4 Land to which this Policy applies

This Policy applies to the whole of the State.

5 Permissibility of mining

- (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.

6 Relationship to other environmental planning instruments

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

7 Development applications to which this Policy extends

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