



Department  
of Industry  
Resources Regulator

# NSW Resources Regulator

Monthly business activity  
report: November 2016



**The NSW Resources Regulator, established on 1 July 2016, is responsible for the compliance and enforcement functions across the mining and resources sectors, and for driving continuous improvement in all of the regulatory functions of the NSW Department of Industry.**

This includes working with industry, community, local councils and other state government agencies to provide a consistent and responsive regulatory approach to ensure compliance with the legislation. This legislation includes the *Mining Act 1992* (Mining Act), *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS (M&PS) Act), and other relevant legislation and associated regulations.

This report provides a summary of the activities of the NSW Resources Regulator for the month of November 2016.



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The Department of Industry, Skills and Regional Development (the department) has taken all care to ensure the accuracy, completeness and reliability of the information provided in this report. Nothing in this report impacts any duties held by any person under legislation administered or enforced by the department. Compliance with the legislation is a legal requirement. Some persons may have a right of internal or external review of decisions made under the legislation administered or enforced by the department.

November was a tragic month for the NSW mining industry with the death of an opal mine worker at Lightning Ridge—the first fatality in the NSW mining industry in over 12 months. The mine worker was fatally injured after being struck by an ore bucket in a mine shaft while investigating the function of the automatic descent of the bucket. A number of people were deployed across different operational units to respond to the incident, and an investigation is now being conducted to determine the cause and circumstances of the incident.

Mine Safety continued its strong focus on education and engagement activities, hosting in Sydney the 26th Electrical Engineering Safety Seminar, themed 'Electrical engineering safety—More than just following the rules'. The seminar was attended by more than 200 engineers, miners, manufacturers, contractors and industry specialists.

Industry information sessions on the end of transitional legislative arrangements under the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 for metalliferous and extractives mines also continued throughout November. Sixteen information sessions were held in regional centres across the state to provide information on the arrangements and to workshop an example of a principal hazard management plan.

In enforcement related matters, the Secretary accepted an enforceable undertaking from Boral Bricks Pty Ltd following an investigation by the NSW Resources Regulator into allegations that Boral had conducted unlawful mining at several sites in southern NSW. In the undertaking Boral committed to training, auditing and conducting industry education initiatives to the value of \$100,000, in addition to paying over \$50,000 in rents, levies and investigation costs.

An appeal was also lodged against the District Court's decision in the prosecution of Silver City Drilling (NSW) Pty Ltd in relation to the \$112,000 penalty imposed and the failure to award costs to the prosecutor.

## Activities

Below is a snapshot of the NSW Resources Regulator's activity for November 2016.



An important role of the NSW Resources Regulator is ensuring all operators and title holders are aware of their obligations and how to meet them. Publishing information and guidelines that assist in identifying and managing obligations is a mechanism for achieving this. Training workshops and information sessions also provide a valuable way to engage with industry and assist them to maximise their compliance.

## Workshops and information sessions

The metalliferous and extractives industry information sessions roadshows on the end of legislative transitional arrangements under the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 began during November. Sessions were held at 16 regional centres across the state to provide information on the arrangements and to workshop an example of a principal hazard management plan. Feedback from the sessions suggests that the workshops were useful for mines in understanding their obligations.

Mine Safety has provided an annual forum for discussions and learnings about key safety matters and emerging issues. This continued in November with the hosting of the 26th Electrical Engineering Safety Seminar in Sydney. More than 200 engineers, miners, manufacturers, contractors and industry specialists attended the seminar, which was themed 'Electrical engineering safety—More than just following the rules'. The seminar featured a number of thought-provoking presentations on a range of topics, including talks on arc blast mitigation and industry performance.

More than

200 

**engineers, miners,  
manufacturers, contractors  
and industry specialists  
attended the Electrical  
engineering safety seminar**



## Workshops and information sessions

Date	What	Where	Detail
4 November	Rescue exercise	Singleton	A NSW mines rescue competition was held in Singleton at an open cut mine
2-4, 15-17, 22-24 & 29-30 November	Information sessions	Dubbo, Orange, Penrith, Port Macquarie, Ballina, Tamworth, Wollongong, Queanbeyan, Merimbula, Broken Hill, Maitland, Cobar and Gosford	Industry information sessions on the end of transitional arrangements under Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 for metalliferous and extractives mines
9-10 November	Safety seminar	Darling Harbour	26th Electrical Engineering Safety Seminar, which was themed 'Electrical engineering safety—More than just following the rules'
22 November	Information session	Wollongong	Information session held on principal control plans
23 November	Exercise	Ulan	Attended, assessed and evaluated an emergency simulation exercise run by Moolarben underground coal mine
25 November	Information session	Thornton	Meeting with original equipment manufacturers (EOMs) for underground coal vehicles to discuss explosion protection, emissions and braking standards
29 November	Exercise	Lithgow	Attended, assessed and evaluated an emergency simulation exercise run by Centennial Springvale underground coal mine

## Targeted assessments and audits

Substantial work was undertaken during November in preparation for the targeted assessment programs (TAPs) focusing on fatigue and emergency management. A fatigue bowtie risk assessment was completed with risk assessment fatigue experts, and the development of a roster questionnaire for feedback from mines.

In addition to the 9 TAPs conducted during November, a further seven regulatory audits were undertaken. The audits primarily focussing on tailings dams safety management systems as part of a joint-agency compliance program.

The NSW Resources Regulator also participated in a multi-agency emergency simulation exercise at Cobar. A new computerised training simulation system increased the effectiveness of the exercise.

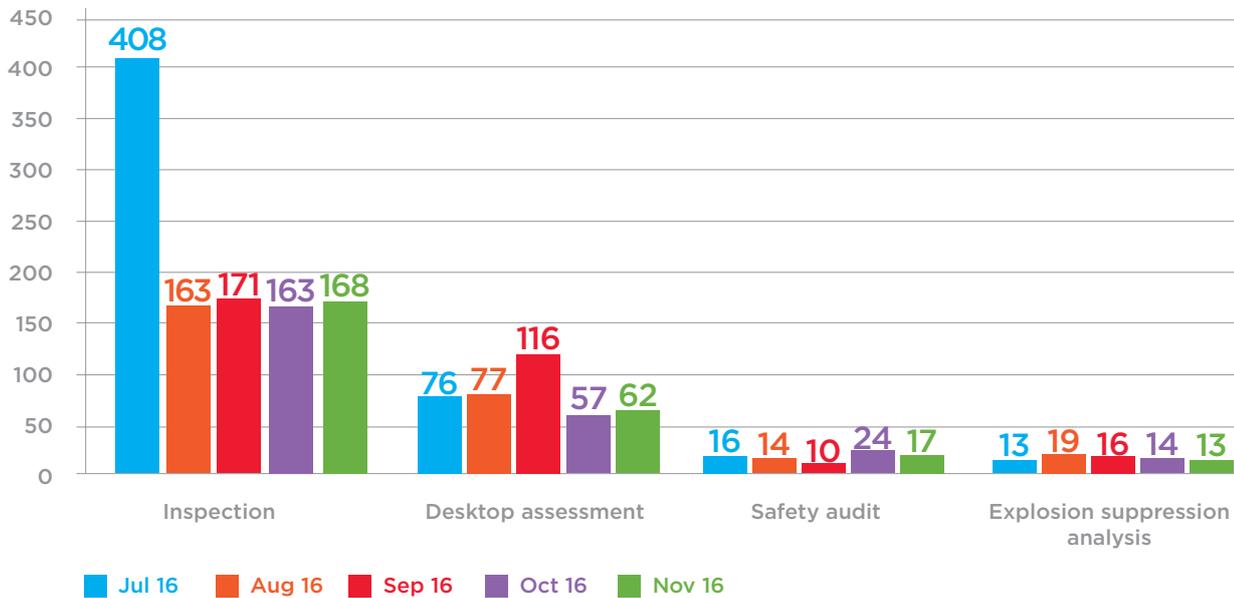
### Mine Safety TAPs and audits for November 2016

Mine	Program
CSA	Targeted assessment: ground and strata control
Northparkes	Targeted assessment: ground and strata control
Perilya South	Targeted assessment: diesel exhaust emissions
Potosi	Targeted assessment: diesel exhaust emissions
Springvale	Targeted assessment: respirable dust
Ashton Underground	Targeted assessment: gas and ventilation
Bulga Underground	Targeted assessment: explosion suppression
Wambo Underground	Targeted assessment: respirable dust
Dendrobium	Targeted assessment: gas and ventilation
Hunter Valley Operations	Audit: dam safety management systems
Cristal Mining Pty Ltd	Compliance audit: exploration
Balranald Gypsum Pty Ltd	Compliance audit: mining
Cadia Valley Operations	Audit: dam safety management systems
Ulan Coal Mine	Audit: dam safety management systems
West Cliff Colliery	Audit: dam safety management systems
Ochre Resources Pty Ltd	Compliance audit: exploration

A detailed report on the outcomes of targeted assessments and audits are published on the NSW Resources Regulator’s website after the program has been completed.

In addition to the detailed TAPs and audits outlined above, Mine Safety also undertakes a variety of inspections, audits and desktop assessments throughout the year. The table below summarises the comparative numbers of each for July, August, September, October and November 2016.

### Mine safety compliance activity



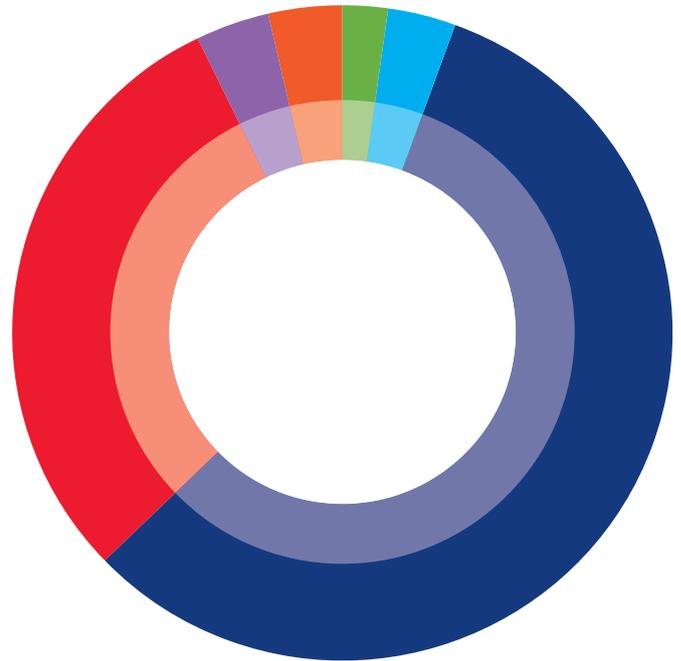
\*July saw a spike in inspection activity due to the Lightning Ridge compliance operation.

The NSW Resources Regulator responds to incidents of non-compliance identified through proactive compliance programs such as inspections and audits, complaints and notifications received, and as a result of investigations.

Due to the different legislation and their reporting requirements, issues of non-compliance can be identified as being those associated with the obligations under the Mining Act, or those relating to mine safety.

## Incidents of Mining Act non-compliances

Incidents of non-compliance with the Mining Act may vary from a failure to submit a report on time or in accordance with a condition on title, to undertaking mining without authorisation.



Number of incidents	Alleged non-compliance type
2	Environmental incident
3	Failure to comply with condition(s)
49	Failure to make payment
26	Failure to report
3	Illegal Mining or prospecting
3	'Fit and Proper Person' concerns

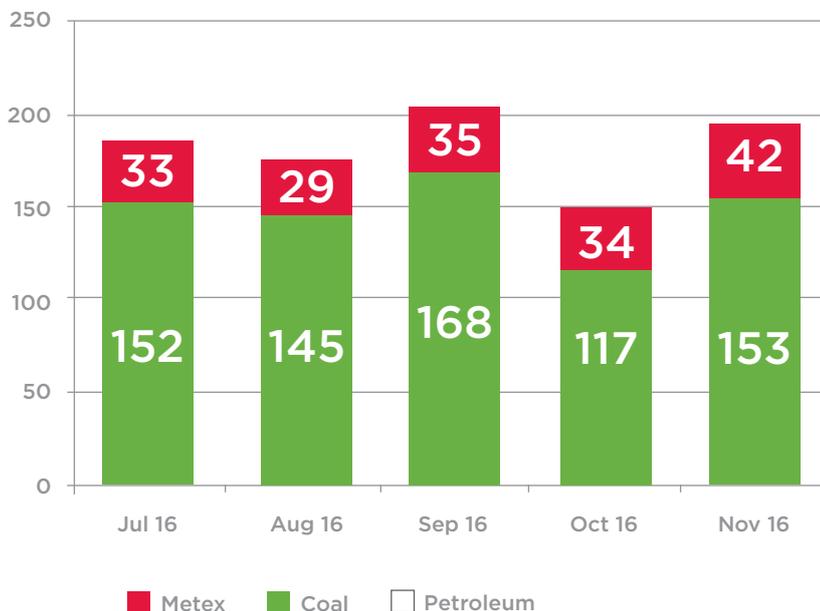


## Mine Safety incident notifications

The WHS (M&PS) Act requires duty holders to inform the regulator of the occurrence of certain incidents. This includes the death of a person, a serious injury or illness, or other prescribed incidents. Notifications received in July, August, September, October and November are shown in the chart below.



Keep up to date on safety incidents by subscribing to **NSW Mine Safety News** via the [NSW Resources Regulator's website](#)



## Significant safety incidents

**Date:** 4 November

**Location:** Lightning Ridge

**Incident:** A person was fatally struck by an 'ore bucket' in a mine shaft while investigating the function of the automatic descent of the bucket.

## High risk notifications

Operators of a mine or petroleum site are required under clause 33 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 to give notice of their intention to carry out an activity identified under schedule 3 of the regulation.

High risk activities cover a variety of actions. They can include electrical work on energised electrical equipment, the development of a new entry for an underground mine, driving or widening an underground roadway in a coal mine beyond 5.5 metres, or suspending a petroleum well. The regulator does not have an approval function but must be notified of the intent to undertake the activity, with a mandated period in which to respond to the notification. High risk notifications received in November are shown in the table on the following page.

## High risk notifications received in November 2016

Mine	WHS (M&PS) Regs provision	Activity
Abel Underground Mine	Schedule 3, clause 10	Sealing
Ashton Coal Mine	Schedule 3, clause 4	Development of new mine entry
Austar Coal Mine	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres
Chain Valley Colliery	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres
Chain Valley Colliery	Schedule 3, clause 10	Sealing
Drayton Mine	Schedule 3, clause 29	Barrier mining
Mannering Colliery	Schedule 3, clause 12	Driving underground roadway that is wider than 5.5 metres
Metropolitan Colliery	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres
Narrabri Colliery	Schedule 13, clause 16(1)(a)	Secondary extraction by long/short/miniwall mining
North Wambo Underground	Schedule 13, clause 13	Widening underground roadway to more than 5.5 metres
PEL0238 Bibblewindi 6	Schedule 13, clause 33	Suspending a well
Ravensworth Operations	Schedule 3, clause 27	Emplacement areas
Springvale Mine	Schedule 13, clause 16(1)(a)	Secondary extraction by long/short/miniwall mining
Springvale Mine	Schedule 13, clause 14	Use of high voltage plant and cables in a hazardous zone
Ulan Underground	Schedule 13, clause 11	Conduct of hot work in a hazardous zone
Wongawilli Colliery	Schedule 13, clause 16(1)(b)	Pillar extraction

## Exemptions granted

Mine operators are able to apply for exemptions from provisions of the regulations under clause 684 of the Work Health and Safety Regulation 2011.

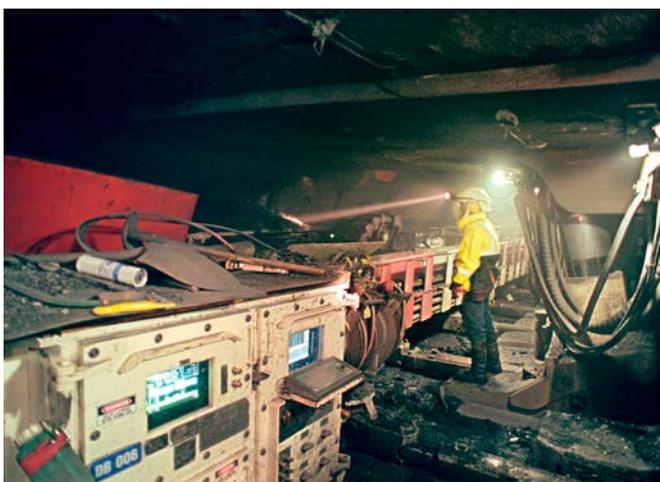
### Exemptions granted in November

No exemptions granted.

## Investigations into major accidents and incidents

The NSW Resources Regulator commenced an investigation into a fatality in an underground opal mine at the Mulga Rush Opal Fields (near Lightning Ridge). The incident occurred at about 3 pm on Friday 4 November 2016 when a heavy steel material hoist bucket fell down an opal mine shaft, hitting a worker at the bottom. The worker suffered fatal injuries as a result. Further information on the incident is contained in information release [IIR16-06 Fatality in underground opal mine](#), which has been published on the NSW Resources Regulator's website.

The investigation is examining the cause and circumstances of the incident.



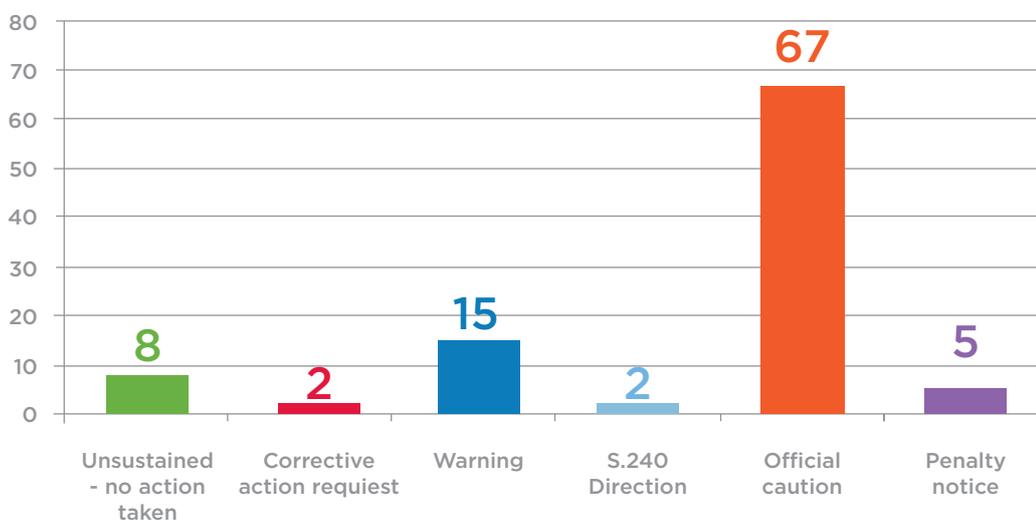
When a duty holder fails to achieve compliance under the requirements of the legislation, the NSW Resources Regulator seeks to force them to comply with their obligations. The approach taken to do this will depend on the significance and impacts of the breach, the tools available under the legislation, and any applicable compliance and enforcement or prosecution policy.

An enforceable undertaking was accepted from Boral Bricks Pty Ltd following an investigation into allegations that Boral had conducted unlawful mining at several sites in southern NSW. The investigation found that Boral had mined clay, including kaolin clay, at its Jindera and Lockhart quarries and that no royalties had been paid in relation to this extraction. At both sites it was determined that the minerals were privately owned minerals.

In the undertaking Boral has committed to training, auditing and conducting industry education initiatives to the value of \$100,000, which includes:

- a full, independent audit of its NSW operations to ensure they are fully compliant with the *Mining Act 1992* and have all of the required approvals
- implementing a training program for its management staff
- funding an industry training program of educational workshops in six regional areas
- paying royalties and levies totalling \$33,556
- paying the regulator's investigation and compliance monitoring costs of \$20,000.

## Mining Act enforcement action



## Prohibition notices

Mine Safety inspectors can issue prohibition notices under section 195 of the WHS Act if they believe that an activity is occurring, or may occur, in a workplace that does pose or could pose a serious risk to the health or safety of a person. A prohibition notice outlines the matters that give rise to the risk, and may include directions on the measures to be taken to remedy the risk.

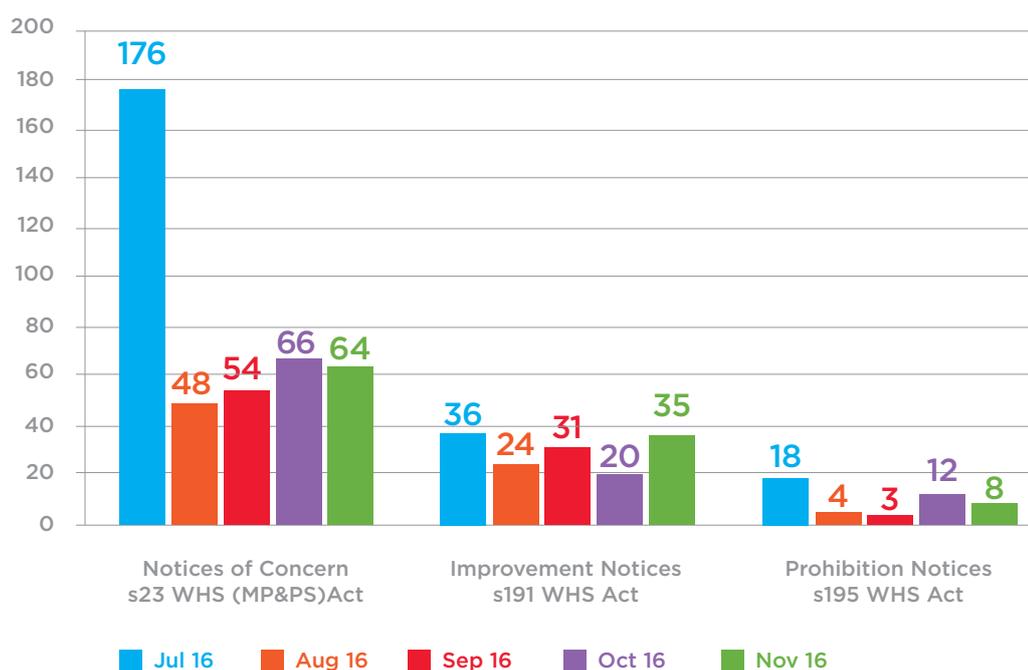
### Prohibition notices issued under this provision in November 2016

PCBU	Site	Details	Prohibited activity
<b>Helensburgh Coal Pty Ltd</b>	Metropolitan Colliery	A High Risk Activity notification was received for mining operations within an outburst control zone.	Mining within the outburst control zone is prohibited pending receipt of the revised outburst Prevention and Control Plan reflecting the gas content and composition limits for normal (unrestricted) mining.
<b>Tahmoor Coal Pty Ltd</b>	Tahmoor Colliery	The drive system of Caterpillar armoured face conveyor (AFCs) was fitted with a CST servo unit that was identified as non-conforming.	Energising of the CST servo valves as fitted on the drive system of the AFC is prohibited on the longwall face while in a hazardous zone unless all controls identified in risk assessment and implemented.
<b>Moolarben Coal Operations Pty Ltd</b>	Moolarben Coal Operations - Open cut	An explosives audit revealed that no evidence could be provided to prove that any member of the shot crew had trained or was competent in the shotfiring process.	Shotfiring operations are prohibited until evidence is provided that members of the shot crew are trained and competent in both the Explosives Management Plan and associated shotfiring procedures for the site.
<b>Yancoal Mining Services Pty Ltd</b>	Austar Coal Mine Underground Operations	The drive system of a Caterpillar armoured face conveyor (AFCs) was fitted with a CST servo unit that was identified as non-conforming.	Energising of the CST servo valves as fitted on the drive system of the AFC is prohibited on the longwall face while in a hazardous zone, unless all controls identified in the risk assessment have been implemented.
<b>Challenger Mines Pty Ltd</b>	Adelong Gold Mine	Inspection of de-watering activity and operations in the decline showed no formal identification of controls and measures for identified risks, in particular for the de-watering activity and blasting operation.	Any activity in the decline area is prohibited until emergency plans and communication plans have been developed and implemented at the mine.

Prohibition notices issued under this provision in November 2016 (continued)

PCBU	Site	Details	Prohibited activity
<b>Cooper, Harold Keith</b>	Mogendoura Mine	Inspection of new mine workings showed inadequate rib and roof support and no emergency plan in place.	All people are prohibited from entering the mine workings until an emergency response plan has been developed (including addressing access to the site), and until a ground support plan has been developed and adequate ground support has been installed.
<b>Hoare, Stephen R</b>	Golden King	A site inspection was undertaken following a desktop review of the Safety Management System for the mine.	Mining and shaft sinking work conducted below unsound rock walls that have not been secured at an open cut mine.
<b>Maroota Sandstone Quarry Australia</b>	Maroota Sandstone Quarry	Inspection undertaken to check on mining activity status. The Mine Operator had notified the NSW Resources Regulator they had stopped mining.	Any mining activity unless a production manager is in place and a Safety Management System is established and implemented.

Key notices issued under work health and safety legislation



Increased numbers for July are attributable to the Lightning Ridge compliance operation

## Prosecutions

Prosecution can act both as an actual response to an incident of non-compliance and also as a deterrent to the wider industry. The decision to prosecute is not taken lightly, but is determined in accordance with the [Prosecution guidelines](#).

### Prosecutions commenced

An appeal was lodged in the Court of Criminal Appeal against the District Court's decision in the prosecution of Silver City Drilling (NSW) Pty Ltd for a breach of the *Work Health and Safety Act 2011 (NSW)*. In August this year, the District Court sentenced Silver City Drilling to a penalty of \$112,000. The Court did not award costs to the prosecutor.

### Prosecutions finalised

No prosecutions were finalised in November.

Information on previously finalised prosecutions is available on the [NSW Resources Regulator's website](#).

## Penalty notices

Penalty notices, issued under section 378K of the Mining Act, can be used to make a person pay a penalty in relation to an offence. The offences and related penalties are prescribed by the regulations, and may include issues such as mining or prospecting without authorisation or failure to comply with a direction.

### Penalty Infringement Notices issued in November 2016

Date	Entity - Authorisation	Penalty Notice amount	Details
3 November	Bond Resources	\$1,000	Failure to pay annual rental fee
3 November	Bond Resources	\$1,000	Failure to pay annual administrative levy
3 November	Platypus Minerals Ltd	\$5,000	Prospect for mineral without authorisation
3 November	Lepidico Limited	\$5,000	Prospect for mineral without authorisation
17 November	Wilpinjong Coal Pty Ltd	\$2,500	Failure to comply with condition - not mining in accordance with an approved mining operation plan (MOP)

## Media

The NSW Resources Regulator issues media releases on significant activities. These are published on the [NSW Resources Regulator's website](#).

Date	Details
8 November	<a href="#">Information release - Fatality in underground opal mine</a>
14 November	<a href="#">Resources Regulator announces appeal against costs judgment in Silver City Drilling work health and safety case</a>
18 November	<a href="#">Request for quote - Mechanical Engineer to assess licenced facilities</a>
22 November	<a href="#">Boral Bricks enters into an enforceable undertaking and commits to independent audit and industry training</a>

## Contact the NSW Resources Regulator



Phone: 1300 814 609



Website: [www.resourcesandenergy.nsw.gov.au](http://www.resourcesandenergy.nsw.gov.au)



Email: [resources.regulator@industry.nsw.gov.au](mailto:resources.regulator@industry.nsw.gov.au)



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