



**NSW  
Resources  
Regulator**

**COMPLIANCE AUDIT PROGRAM**

# **JANUARY 2020 TO JUNE 2021 COMPLIANCE AUDIT PROGRAM REVIEW**

November 2021



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# 1. Introduction

## 1.1. Background

The NSW Resources Regulator's compliance audit program aims to:

- assess the level of compliance with the regulatory instruments
- provide internal feedback to improve title conditions, policies or general regulatory framework (protecting and improving system integrity)
- assess auditee performance and provide feedback to them on how they may be able to improve their performance
- increase stakeholder confidence in regulatory system
- increase the level to which titleholders are actively managing their own compliance.

The compliance audit strategy highlights that the audit schedule and focus for each year will be developed using a risk review process. A risk assessment methodology (broadly based on AS ISO 31000:2018 Risk management – Guidelines) is used to develop a broad risk profile for each title (or group of titles) to facilitate the development of the annual audit program. Risk factors used include:

- whether the Regulator has primary regulatory responsibility
- the type, size and complexity of operations and activities
- the location of activities (environmental sensitivity of surrounding area and proximity of residents)
- results of previous audits and titleholder compliance history
- stakeholder concerns.

The compliance audit strategy and program include a requirement for annual review of the audit programs against the identified objectives. This report provides the review of the compliance audits commenced by the Regulator between 1 January 2020 and 30 June 2021.

## 1.2. Focus of the 2020-2021 compliance audit program

- In the exploration sector, the 2020-2021 audit program included 18 significant exploration programs, nine of which had received funding under Round 3 of the NSW Government New Frontiers Co-operative Drilling grants program.
- In the mining sector, the 2020-2021 audit program included three underground coal mining operations, two open cut coal mining operations, and a limestone quarry.
- Details of the sites audited in the 2020-2021 compliance audit program are summarised in Table 1. It should be noted that the COVID-19 pandemic curtailed the 2020-2021 compliance audit program, with less audits able to be completed during the year, compared to previous years.

Table 1: Details of audits completed during the 2020-2021 compliance audit program

Mine/Project	Titleholder	Title/s	Audit scope
<a href="#">Tahmoor Colliery</a>	Tahmoor Coal Pty Ltd	CCL716, ML1308, ML1376, ML1539, ML1642	Subsidence management
<a href="#">Metropolitan Colliery</a>	Metropolitan Collieries Pty Ltd	CCL703, ML1610	Subsidence management
<a href="#">Boggabri Coal Mine</a>	Boggabri Coal Pty Ltd	CL368, ML1755, AUTH355, AUTH339	Mining compliance
<a href="#">Excelsior Limestone Quarry</a>	Graymont (Excelsior) Pty Ltd	ML1517, PLL1219, SL664, MPL318	Mining compliance
<a href="#">Shenhua Watermark Project</a>	Shenhua Watermark Coal Pty Ltd	EL7223	Exploration compliance
<a href="#">Kiola Project</a>	Lachlan Resources Pty Ltd	EL8590	Exploration compliance
<a href="#">Bowdens Silver Project</a>	Bowdens Silver Pty Ltd	EL5920, EL6354	Exploration compliance

Mine/Project	Titleholder	Title/s	Audit scope
<a href="#">Lady Ilse Project</a>	Modeling Resources Pty Ltd	EL8357	Exploration compliance
<a href="#">Blackwater Project</a>	Australian Consolidated Gold Holdings Pty Ltd	EL8744	Exploration compliance
<a href="#">Mount Aubrey Project</a>	Godolphin Tenements Pty Ltd	EL8532	Exploration compliance
<a href="#">Gemini &amp; Blue Mountain Project</a>	Scorpio Resources Pty Ltd	EL8398	Exploration compliance
<a href="#">Wagga Tank &amp; Southern Nights Projects</a>	Peel Mining Limited	EL6695	Exploration compliance
<a href="#">Mountain Tank Project</a>	PGM Management Pty Ltd	EL7714	Exploration compliance
<a href="#">Junee Project</a>	TRK Resources Ltd	EL8622	Exploration compliance
<a href="#">Junee Project</a>	Freeport McMoRan Exploration Australia Pty Ltd	EL8867	Exploration compliance
<a href="#">Little Broken Hill &amp; Platinum Springs Projects</a>	Siouville Pty Ltd	EL7390	Exploration compliance
Copi Project **	Relentless Resources Pty Ltd/RZ Resources Pty Ltd	EL8312	Exploration compliance
<a href="#">Stockton off-shore sand project</a>	NSW Geological Survey	EL9040	Exploration compliance
<a href="#">Tomingley Gold Project</a>	Alkane Resources Ltd	EL5675	Exploration compliance

Mine/Project	Titleholder	Title/s	Audit scope
<a href="#">Flemington Project</a>	Flemington Mining Operations Pty Ltd	EL7805	Exploration compliance
<a href="#">Cowal Gold Mine</a>	Evolution (Cowal) Pty Ltd	EL7750	Exploration compliance
<a href="#">Hillgrove Mine</a>	Hillgrove Mines Pty Ltd	EL3326 and 47 mining leases	Exploration compliance
<a href="#">Werris Creek Mine</a>	Werris Creek Pty Ltd	ML1563, ML1671, ML1672	Mining compliance
<a href="#">Mandalong Mine</a>	Centennial Mandalong Pty Ltd	CCL762, ML1443, ML1543, ML1553, ML1722, ML1744, ML1793, MPL191	Mining compliance

\*\* - It should be noted that the audit of the Copi project (EL8312, RZ Resources) was suspended following the site inspection due to an ongoing investigation by the Regulator. As the investigation remains ongoing, the audit of this EL it has not been included in the audit statistics and key issues.

### 1.3. Audit scopes

As noted in Table 1, the audit scopes varied across the program. A description of each audit scope is provided in Table 2.

Table 2: Description of audit scopes

Audit scope	Description
Mining compliance	This audit scope included a compliance assessment against the requirements of the <i>Mining Act 1992</i> and regulation and the mining leases issued for the operations. The scope included an assessment of compliance against the requirements of the approved MOP for the operations, and an assessment of the progress of rehabilitation.
Exploration compliance	This audit scope included a compliance assessment against the requirements of the <i>Mining Act 1992</i> and regulation and the exploration licences issued for the projects.

Audit scope	Description
	The scope included an assessment of compliance against the requirements of any exploration activity approvals granted for the projects, and the relevant exploration codes of practice, including assessment against the titleholder's commitments in exploration activity approval documentation.
Subsidence management	This audit scope included a compliance assessment against the requirements of the subsidence management approvals and associated management plans for each of the underground coal mines audited.



## 2. Summary of audit findings

The findings of the 2020-2021 compliance audit program are summarised in Table 3.

There were 10 non-compliances, 14 observations of concern and 33 suggestions for improvement identified across the 24 audits included in the 2020-2021 audit program.

The non-compliances generally related to:

- failure to attempt to negotiate a co-operation agreement with an overlapping titleholder
- failure to submit rehabilitation objectives and completion criteria for exploration
- failure to have a documented community consultation strategy
- failure to submit annual activity reports.

The non-compliances resulted in the issuing of one penalty infringement notice and eight official cautions.

Observations of concern were identified during the audits which require further management action by the title holder to avoid becoming non-compliant in the future. These included:

- ineffective erosion and sediment controls
- poor rehabilitation planning
- inadequate community consultation strategies
- issues of concern with chemical storage, bunding and spill management
- poor quality environmental, rehabilitation and/or community consultation risk assessments.

Generally, the suggestions for improvement identified during the audits related to the implementation of some form of compliance management system which would assist titleholders to better identify and manage their compliance obligations. Common issues identified included:

- failure to adequately identify and manage compliance requirements
- poor inspection and monitoring processes
- poor management of subcontractors (e.g. drillers).

Table 3: Summary of audit findings

Mine/Project	Titleholder	Title	Non-compliances	Observations of concern	Suggestions for improvement
<b>Subsidence management</b>					
Tahmoor Colliery	Tahmoor Coal Pty Ltd	CCL716, ML1308, ML1376, ML1539, ML1642	-	-	1
Metropolitan Colliery	Metropolitan Collieries Pty Ltd	CCL703, ML1610	-	-	-
<b>Mining compliance</b>					
Boggabri Coal Mine	Boggabri Coal Pty Ltd	CL368, ML1755, AUTH355, AUTH339	1 official caution	1	2
Excelsior Limestone Quarry	Graymont (Excelsior) Pty Ltd	ML1517, PLL1219, SL664, MPL318	-	2	2

Mine/Project	Titleholder	Title	Non-compliances	Observations of concern	Suggestions for improvement
Werris Creek Mine	Werris Creek Pty Ltd	ML1563, ML1671, ML1672	1 official caution	1	6
Mandalong Mine	Centennial Mandalong Pty Ltd	CCL762, ML1443, ML1543, ML1553, ML1722, ML1744, ML1793, MPL191	-	1	4
<b>Exploration</b>					
Shenhua Watermark Project	Shenhua Watermark Coal Pty Ltd	EL7223	1 official caution	-	-
Kiola Project	Lachlan Resources Pty Ltd	EL8590	-	1	-
Bowdens Silver Project	Bowdens Silver Pty Ltd	EL5920, EL6354	-	-	-

Mine/Project	Titleholder	Title	Non-compliances	Observations of concern	Suggestions for improvement
Lady Ilse Project	Modeling Resources Pty Ltd	EL8357	-	-	-
Blackwater Project	Australian Consolidated Gold Holdings Pty Ltd	EL8744	-	-	1
Mount Aubrey Project	Godolphin Tenements Pty Ltd	EL8532	-	-	1
Gemini & Blue Mountain Project	Scorpio Resources Pty Ltd	EL8398	-	1	-
Wagga Tank & Southern Nights Projects	Peel Mining Limited	EL6695	1 penalty notice & 1 official caution	-	1
Mountain Tank Project	PGM Management Pty Ltd	EL7714	2 official cautions	1	4
Junee Project	TRK Resources Ltd	EL8622	2 official cautions	3	3

Mine/Project	Titleholder	Title	Non-compliances	Observations of concern	Suggestions for improvement
Junee Project	Freeport McMoRan Exploration Australia Pty Ltd	EL8867	1 official caution	-	-
Little Broken Hill & Platinum Springs Projects	Siouville Pty Ltd	EL7390	-	1	1
Stockton off- shore sand project	Geological Survey of NSW	EL9040	-	-	-
Tomingley Gold Project	Alkane Resources ltd	EL5675	-	1	2
Flemington Project	Flemington Mining Operations Pty Ltd	EL7805	-	-	-
Cowal Gold Mine	Evolution (Cowal) Pty Ltd	EL7750	-	1	4

Mine/Project	Titleholder	Title	Non-compliances	Observations of concern	Suggestions for improvement
Hillgrove Mine	Hillgrove Mines Pty Ltd	EL3326 and 47 mining leases	-	-	1
<b>Total</b>			10 (1 penalty notice & 9 official cautions)	14	33

## 3. Key issues

### 3.1. Subsidence management

Two subsidence management audits were undertaken during the 2020-2021 compliance audit program to complete a targeted audit program commenced in 2019. No significant issues were identified during these two audits.

Generally, remediation of subsidence impacts along creek lines was progressing satisfactorily. Rehabilitation of other areas of subsidence has commenced in line with the approved corrective action management plans. Further inspections by the Regulator will be ongoing to monitor the progress of remediation and rehabilitation works.

### 3.2. Mining compliance

Four mining compliance audits were undertaken during the 2020-2021 compliance audit program. Two non-compliances were identified from these four audits.

The first non-compliance related to the failure to attempt the negotiation of a co-operation agreement with an overlapping titleholder as required by a condition on the mining lease. The mining lease holder was unaware of the presence of an overlapping petroleum title and therefore was unaware of the need to attempt to negotiate a co-operation agreement. It is recommended that leaseholders undertake a search, using tools such as the publicly available departmental mapping systems Commonground or Minview, to determine whether there are any overlapping titles affecting their mining leases. Where overlapping titles do exist, then the titleholder of the overlapping title should be identified as a potential stakeholder for any consultation program. Where possible, negotiation of co-operation agreements between the overlapping titleholders would be beneficial and could include things such as data sharing, co-ordination of drilling programs etc.

The second non-compliance related to the late submission of an annual environmental management report. It is recommended that mining lease holders develop and implement systems or processes to alert the approach of a reporting deadline so that reports can be completed and lodged by the due dates.

A significant issue of concern identified during the mining compliance audits was a failure to monitor and report rehabilitation progress against the rehabilitation objectives and completion criteria identified in the mining operations plan. Annual reports typically contain a detailed discussion of rehabilitation methods and monitoring results but there is often a failure to assess rehabilitation progress against the

objectives and completion criteria to monitor the progress towards achieving the final approved land use. It is noted that for mining leases, there are currently no specific detailed requirements for rehabilitation, other than a general condition that sites must be rehabilitated to the satisfaction of the Minister. The new rehabilitation reforms that commenced in July 2021 will address this issue by requiring rehabilitation risk assessments and the preparation of rehabilitation management plans for all mining operations. Further information on the reforms can be found on the Regulator's website (<https://www.resourcesregulator.nsw.gov.au/environment/rehabilitation/rehabilitation-and-compliance-reforms>)

### 3.3. Exploration

The non-compliances and observations of concern identified during the 17 exploration audits conducted as part of the 2020-2021 compliance audit program can generally be broadly grouped into several key areas including:

- risk assessment
- community consultation
- rehabilitation, including:
  - rehabilitation objectives and completion criteria
  - monitoring of rehabilitation progress
- environmental management which includes:
  - management of chemicals, fuels and oils
  - weed management
  - roads and tracks
- compliance management.

These issues will be discussed in the following sections.

#### 3.3.1. Risk assessment

Risk assessments are a mandatory requirement of three of the exploration codes of practice as follows:

- Exploration code of practice: Environmental management – mandatory requirement 12.1



- Exploration code of practice: Rehabilitation – mandatory requirement 1
- Exploration code of practice: Community consultation – mandatory requirement 1.

Generally, risk assessments for environmental management and rehabilitation were comprehensive and well documented. However, an issue for improvement is the monitoring and review of the effectiveness of the risk controls. Case study 1 provides information on the risk assessment and review process implemented by Godolphin Tenements Pty Ltd on the Mount Aubrey exploration project near Parkes. The company undertook a comprehensive environmental risk assessment that outlined the risk controls to be implemented during the drilling program. At the end of phase 1 of the drilling, the risk assessment was reviewed with the performance of each risk control measure assessed for effectiveness. Where the control was identified as being not as effective as it could be, additional or amended controls were recommended for implementation in phase 2 of the drilling program.

The risk assessments for community consultation were generally minimal with most explorers using the guidance material in Table 2 in Appendix 1 of the code to assess the activity impact level. This is the minimum standard that would be expected such that licence holders can design a community consultation program that meets the minimum expectations set out in the guidance material. It is preferable that licence holders undertake a site specific risk assessment in a similar manner to those prepared for environmental management or rehabilitation. Each exploration licence area will have specific issues relevant to the communities within which exploration is undertaken. These issues will not be identified or addressed using only the standard activity impact level assessment.

There were some examples of comprehensive and robust community consultation risk assessments that had been prepared by explorers. Case study 2 provides information on the community consultation risk assessment prepared by Flemington Mining Operations Pty Ltd for the Flemington project.

### 3.3.2. Community consultation

Community consultation is a condition of all exploration licences. Consultation must be undertaken in accordance with the Exploration Code of Practice: Community Consultation.

All the exploration licence titleholders audited during the 2020-2021 compliance audit program had undertaken community consultation generally appropriate to the nature and scale of the exploration activities. Titleholders were also observed to have maintained records of the community consultation undertaken. However, there were two key areas of concern identified during audits relating to community consultation as outlined in the following sections.

### 3.3.2.1. Community consultation strategies

Mandatory requirement 2 of the Exploration Code of Practice: Community Consultation requires the preparation of a community consultation strategy to manage the risks identified in the risk assessment. Mandatory requirement 3 of the code sets out the requirements for preparation of the community consultation strategy. Mandatory requirement 5 of the code identifies the community consultation strategy as a mandatory record.

Five of the 17 exploration audits identified that licence holders had not developed and/or implemented a documented community consultation strategy. Further, the content of the community consultation strategies prepared by the remaining licence holders audited varied widely. Issues identified included:

- lack of a detailed analysis of stakeholders
- no clearly defined objectives for the consultation strategy
- lack of a defined process and identification of mechanisms for consultation with different stakeholder groups
- no defined process or mechanisms for analysing consultation outcomes or revising the consultation strategy to ensure it remains relevant and effective.

One of the keys to a good community consultation strategy is a comprehensive analysis of the stakeholders, and the potential impacts on each, that may be relevant to the exploration activities, or the area in which those activities are taking place. Licence holders should be aware that different communication mechanisms may be needed for different stakeholder groups. A one size fits all approach may not be the best approach for effective community consultation. Therefore, the strategy should identify which methods are to be used to effectively consult with the various stakeholder groups.

Community expectations and stakeholders can change over time, so a mechanism for revising the community consultation strategy must be documented within the strategy to ensure it continues to meet the objectives of the code. Some licence holders are using the annual community consultation reporting process as a trigger for reviewing and revising the consultation strategy but in many cases, these triggers have not been documented.

Case study 3 provides an example of a community consultation strategy prepared by Scorpio Resources Pty Ltd, who undertook analysis of stakeholders and impacts for each different type of exploration activity, and devised a consultation strategy that took into account the different impact levels for each stakeholder group.

### 3.3.2.2. Community consultation reporting

Mandatory requirement 4 of the code of practice requires the licence holder to implement, monitor, and report annually on the community consultation strategy. For most exploration audits, the licence holders were able to provide evidence that the consultation strategy had been implemented. All licence holders had prepared and submitted annual community consultation reports, but it was noted that the information provided in many reports was lacking in detail and did not provide any assessment of performance against the documented strategy.

To be effective, community consultation reporting must be more than just a list of who was consulted and when. Licence holders need to analyse and assess the methods and outcomes of consultation to:

- check that consultation mechanisms are appropriate and effective, and
- determine whether any changes need to be made to the consultation approach or the exploration activities because of the outcomes of the consultation activities.

### 3.3.3. Rehabilitation

#### 3.3.3.1. Rehabilitation objectives and completion criteria

Mandatory requirement 2 of the Exploration Code of Practice: Rehabilitation requires exploration licence holders, not later than 14 days prior to the commencement of surface disturbing activities, to provide to the Secretary a copy of clear, specific, achievable and measurable rehabilitation objectives and completion criteria (ROCC). For higher risk prospecting operations, a rehabilitation management plan is required to be prepared and submitted with the ROCC.

The failure to submit ROCC was identified as a non-compliance in three of the exploration audits completed during 2020-2021. In two of these cases, ROCC had been developed and were being implemented, however, they had not been submitted to the Regulator as required. In the third case, the titleholder had not prepared ROCC for the project, but it was noted that objectives and completion criteria had been developed for other exploration activities on the same exploration licence. Licence holders are reminded of the need to submit ROCC and/or a rehabilitation management plan prior to commencing any surface disturbing works.

There were several exploration licences where ROCC had been developed for the same standard across all areas of the exploration licence. Licence holders need to be aware that different ROCC may need to be developed to account for differing final land use outcomes. For example, different standards of rehabilitation may be undertaken dependent on whether the exploration boreholes were within the proposed mine footprint and subsequently likely to be further disturbed during future mining development. In this instance it would be appropriate that different ROCC be developed – one for areas

outside of the proposed mine footprint and one for those exploration boreholes within the proposed mine footprint.

### **3.3.3.2. Monitoring of rehabilitation progress**

A significant issue identified during the exploration audits was the need for exploration licence holders to better align the rehabilitation monitoring programs to assess rehabilitation progress against the ROCC.

For exploration, mandatory requirement 3 of the Exploration Code of Practice: Rehabilitation requires the licence holder to develop, implement and complete a rehabilitation program (which includes a monitoring program) to rehabilitate disturbed areas to a condition that can support the intended final land use. The ROCC are developed based on the intended final land use, so the rehabilitation monitoring program should be framed around tracking progress towards achieving the completion criteria.

For most of the exploration sites inspected during the audit program, licence holders were generally using photographic records to monitor rehabilitation progress. Very few explorers had systematic monitoring programs in place for monitoring and recording the progress of rehabilitation over time. A photograph alone may not always be sufficient to monitor the progress of rehabilitation. Where corrective actions are required to address any issues such as erosion or weed infestation in rehabilitated areas, these cannot be captured using a photograph alone. It is recommended that licence holders consider the development and implementation of a rehabilitation monitoring checklist for example, that can be used to monitor the progress of rehabilitation against the approved rehabilitation objectives and completion criteria for that site.

### **3.3.4. Environmental management**

Standard condition 4 of an exploration licence requires the licence holder to prevent or minimise so far as is reasonably practicable, any harm to the environment arising from the activities carried out under the licence. Condition 2 of an exploration activity approval requires the licence holder to carry out the activity in compliance with Part B of the Exploration Code of Practice: Environmental Management.

For each exploration audit undertaken, an assessment of compliance was made against the mandatory requirements of the code of practice. There was no significant harm to the environment observed at any of the sites audited but there were some areas of concern as outlined in the following sections.

#### **3.3.4.1. Chemical management**

Mandatory requirements 1.1 to 1.4 of the Exploration Code of Practice: Environmental Management outline the requirements for the use, handling and storage of chemicals, fuels and lubricants. Most

exploration companies and contract drillers had controls in place to provide secondary containment to chemicals on site, and the means to manage spills should any occur.

There were three sites where observations of concern were raised regarding chemical management. Two of these sites related to inadequate secondary containment being provided for the storage of chemicals, fuels and oils. The third site related to a spill kit that was observed to be positioned such that it was not readily accessible. At each site, the concerns were immediately addressed by exploration staff and no further enforcement actions were required. It is recommended that exploration licence holders implement inspections and monitoring of the activities of the drilling operators to ensure that chemicals, fuels and lubricants are managed appropriately in accordance with the requirements of the code of practice. This should include checking:

- adequate bunding is in place and all chemicals, fuels and lubricants are stored within the bunded area
- safety data sheets are readily available on site
- spill kits are available and readily accessible.

#### **3.3.4.2. Weed management**

Mandatory requirement 8.1 of the Exploration Code of Practice: Environmental Management requires exploration licence holders to implement all practicable measures to prevent the introduction and spread of weeds, pest animals, and animal and plant diseases. Although there are no similar regulatory requirements for mining operations and mining lease holders, it would be expected that the risk of weed incursion and the impacts of pest animals and diseases would be addressed as part of a rehabilitation risk assessment in the mining operations plan.

Most exploration licence holders and mining lease holders have identified weeds as a risk to rehabilitation. Controls to manage weed risk include:

- maintaining vehicle hygiene for site vehicles
- weed spraying or mechanical removal where weeds do become established.

In most cases, explorers have implemented vehicle inspection and/or washdown procedures for all vehicles accessing exploration sites. At several site inspections, the Regulator vehicles were either inspected for excess weed or soil material or were washed down before or during the site visits. This was a good demonstration of the implementation of weed management controls.

Where weed management controls such as vehicle washdowns were implemented, it was observed that licence holders are not always documenting and maintaining records as evidence of when and how

those controls were implemented. It is recommended that where washdown of the drill rig and other vehicles is a required control, licence holders should consider the development and implementation of a process to verify that washdowns are occurring and are documented.

### 3.3.4.3. Roads and tracks

Mandatory requirements 7.1 to 7.5 of the Exploration Code of Practice: Environmental Management require the title holder to:

- consult with relevant landholders prior to establishing any new roads or tracks
- plan, design, construct and use roads and tracks in a manner which minimises the area and duration of disturbance
- construct any crossing of rivers, permanent and intermittent water lands and wetlands to prevent impacts on fish habitats
- refrain from using any unsealed road or track during wet conditions to prevent damage to that road or track
- repair all damage to existing roads and tracks resulting from exploration activities.

Generally, most explorers were compliant with these requirements. Existing farm tracks were mostly used to access exploration sites, and, in some cases, these tracks had been upgraded in consultation with the land holder.

An example of good practice, which was observed on a different exploration program, may assist in providing explorers and land holders a set of clear expectations regarding the implementation of the exploration program. Flemington Mining Operations Pty Ltd has developed a detailed prospecting plan which accompanies the land access agreement for each exploration activity. This plan sets out the agreed points of access and the location of any tracks used to access drilling sites. Case study 4 provides an overview of the use of these detailed prospecting plans by Flemington Mining Operations Pty Ltd.

### 3.3.5. Compliance management

The audits of exploration licences and mining leases have generally found that higher levels of compliance are achieved if licence or lease holders have identified and are actively managing their compliance obligations within some form of compliance management system. This may take the form of a simple Excel spreadsheet or database with hyperlinks to documents and records, or a sophisticated software package that can track and escalate compliance issues.

Identifying compliance obligations is a critical step in the development of an effective compliance management system. Compliance obligations for an exploration project can include:

- regulatory requirements (for example, the Mining Act 1992)
- conditions imposed on the grant, renewal, or transfer of exploration licences
- exploration activity approvals
- exploration codes of practice
- specific commitments made by the organisation (for example, commitments made in the approved exploration activity application).

Once identified, compliance obligations should be reviewed periodically to identify any changes in those obligations (e.g. changes in legislation).

Contractors are often used to undertake specialist tasks (i.e. exploration drilling). While the responsibility for compliance or the implementation of environmental controls is often passed to the contractor, the licence holder retains accountability for compliance with its licence conditions and other compliance obligations. It is important that the licence holder exercises management control of its contractors by specifying contract requirements, providing oversight of contracted works, and evaluating the performance of the contractor during the contracted works.

As part of a compliance management system, an effective inspection, monitoring and evaluation process is required to:

- monitor the implementation of the risk controls
- evaluate the effectiveness of those controls based on an assessment of inspection and monitoring data
- implement an adaptive management approach if monitoring shows that controls may be ineffective.

It is recommended that all licence and lease holders consider the development of compliance management tools to assist them to be able to actively manage their compliance obligations. As a starting point, the Regulator has prepared the self-audit checklist for explorers ([https://www.resourcesregulator.nsw.gov.au/data/assets/word\\_doc/0004/885658/Self-audit-checklist-explorers.docx](https://www.resourcesregulator.nsw.gov.au/data/assets/word_doc/0004/885658/Self-audit-checklist-explorers.docx)) which is available for licence holders to use to assess their own level of compliance.

## 4. Case studies

These case studies are provided as examples of some of the good practices that have been observed during compliance audits undertaken as part of the 2020-2021 audit program.

### 4.1. Case Study 1 - Environmental risk assessment

Exploration licence 8532 (EL8532) is held by Godolphin Tenements Pty Ltd (Godolphin). The exploration area is in an agricultural area about 30 kilometres south-east of Peak Hill in central NSW. As part of the exploration program for the Mount Aubrey project, in 2020, Godolphin submitted and had approved an application to conduct assessable prospecting operations including:

- up to 550 shallow (average depth of 10 metres) small diameter auger drill holes using a vehicle-mounted auger
- up to 60 reverse circulation (RC) drill holes ranging from 80 to 200 metres in depth
- up to five moderate to shallow depth diamond drill holes.

The environmental risk assessment prepared by Godolphin for the Mt Aubrey drilling program was reviewed during a compliance audit. A comprehensive range of risks to both the physical and biological environment had been identified for the drilling program including:

- soil degradation
- soil contamination
- surface water contamination
- airborne dust
- hazardous substances
- waste
- threatened species
- ecological and biosecurity impacts
- barriers to wildlife movement
- resource use and community impacts

The risk assessment was well documented in an Excel spreadsheet which identified potential impacts and the controls to be implemented. At the end of phase 1 of the drilling program, the risk assessment was reviewed to assess the performance of the environmental controls and identify any changes to controls required for the phase 2 program. Table 4 provides an extract from the risk assessment to demonstrate the approach.



Table 4: EL8532 Exploration drilling environmental risk assessment

Risk	Expected impacts	Mitigation	Performance	Recommendation
Airborne dust	Dust from aircore and RC drilling expected to be minimal	Dust suppression on RC drill rig cyclone	No dust suppression used on cyclone for phase 1. Observation of some dust leaving immediate drilling area.	Cyclone to come with mandatory dust suppression. This was carried out from the start of phase 2 drilling.
Soil degradation	Small area of disturbance expected around the drill rig	No clearing or site preparation required. Drillers to lay plastic sheeting under drill rig. Bunding with outside return.	Disturbance immediately around drill rig as expected. Some impacts associated with spillage of drill cuttings at cyclone and outside return.	Geotextile to be laid around drill rig and under cyclone. Outside return to be collected with all future aircore drilling to use a trailer-mounted outside return collection module.
Noise	The nearby dwelling may be impacted by drilling noise. It is likely that the noise impacts will be from aircore drilling only. The RC and diamond drilling area is located further away.	Drilling will only be conducted between the hours of 0700 and 1700. Aircore drilling will not be completed at Blue Hills on Sunday.	No noise issues noted. Observation of noise and visual aspects of the drill rig from the gate on the main road (closer to local resident) did not return any noticeable noise or visual issues.	No changes
Hazardous substances	Hazardous materials on site only include diesel and petrol fuels. All drilling lubricants and fluids are biodegradable.	Fuel will only be stored on site in an approved storage tank with bunding. All drilling fluids and lubricants will be stored in a sealed container or banded area.	Spillage of hydraulic oil during repairs on drill rig. Spill kit used but not entirely effective due to volume. Contaminated soil shovelled into bags and disposed of at Parkes tip.	Large spill kit required. Large spill matting now mandatory. Additional spill protection and matting to be laid or on standby during repairs.

Risk	Expected impacts	Mitigation	Performance	Recommendation
Biological	No impacts expected	The clearing or removal of any vegetation has been prohibited during the completion of the drilling program.	Only minor movement of small fallen timber to allow drill rig access.	No changes and no impacts.
Ecological and biosecurity impacts	Possible introduction of noxious weeds.	All vehicles will be washed down before entry to the site if they have come from other properties. The RC and diamond drilling will be completed in a restricted area and is unlikely to result in the transport of weed species across the site. The aircore drill rig will be cleaned before moving between Blue Hills, Mt Aubrey Mine and Mt Aubrey East.	Vehicles cleaned before entry into property before drilling.	No changes and no impacts.

Once a risk assessment has been completed and risk controls have been identified, it is important to monitor the implementation of the controls to check that the controls have been properly implemented, and to check that the controls are effective in addressing the risk. As shown by the Godolphin example, the performance of each risk control was assessed and documented following the completion of the phase 1 drilling. For most controls, no changes were required but for some risks, the controls initially specified in the risk assessment, although implemented, were not as effective as they could be in addressing the identified risks, and changes were recommended for future drilling programs. These changes were documented in the recommendation section of the spreadsheet. By reviewing the risk assessment and the implemented controls as the project progressed, Godolphin was able to identify where changes to controls were required. This is a good example of a robust risk assessment process that includes reviewing the risks and adjusting controls to more effectively manage the risks associated with exploration activities.

## 4.2. Case Study 2 – Community consultation risk assessment

Exploration licence 7805 (EL7805) is held by Flemington Mining Operations Pty Ltd (Flemington). The exploration area is located in a pastoral and broadacre agricultural area about nine kilometres north-west of Fifield in the central west of NSW. Flemington has undertaken a range of exploration activities across the licence area including:

- aircore drilling
- induced polarisation programs
- geological mapping.

Prior to starting exploration activities, Flemington undertook a comprehensive and robust risk assessment to identify and consider the range of opportunities and potential threats associated with community consultation and engagement with respect to the exploration program. This risk assessment was undertaken in addition to the assessment of the activity impact level for each type of exploration activity.

Table 5 provides an extract from the Flemington community consultation risk assessment to demonstrate the approach. The risks and control measures identified in the community consultation risk assessment were used to inform the development of the community consultation strategy for the Flemington project. For example, objectives of the consultation strategy included:

- Ensure that the local community has opportunities to discuss developments on EL 7805 with Flemington Mining Operations (FMO).

- Maintain open and honest dialogue to facilitate a sound working relationship between the title holder, landholders and community.
- An appropriate process is undertaken to assess the risk surrounding activities, the affected stakeholders, methods of communication and consultation, and the monitoring of, and response to, consultation events.

Table 5: EL7805 Community consultation risk assessment

Risk or threat	Source	Consequence	Risk level	Likelihood	Control measure
Failure to gain the 'social licence to operate'.	Inadequate information provided to the community and landholders.	Negative impacts on obtaining access to land and distrust from the community	Low	Unlikely – The activities are not located near any major towns. Control measures will be implemented.	Open and honest communication with stakeholders, and commitment to establishing and maintaining good relationships with the community.
Community Consultation Strategy becomes inappropriate due to change in social/community circumstances.	Changes in society, such as political, economic, social changes etc.	Community consultation carried out in accordance with the Community Consultation Strategy will not be suitable.	Low	Unlikely – Control measures will be implemented and social climate will be monitored.	The Community Consultation Strategy will be updated annually in accordance with the Annual Activity Report and will also be updated each time a new activity is proposed.
Community groups will raise concerns regarding exploration operations in the area.	Views of individuals or groups in the community being expressed.	Negative impacts on obtaining access to land and distrust from the community.	Low	Unlikely – The activities proposed are not located near any major towns. Control measures will be implemented.	Commitment to establishing and maintaining good relationships with the community and providing information as to proposed activities and benefits to the community.

Risk or threat	Source	Consequence	Risk level	Likelihood	Control measure
The landholder will raise concerns during undertaking of activity.	Activities departing from plan and information provided to landholder.	Negative impact on relationship with landholder.	Low	Unlikely – Landholder will be fully informed prior to commencement of the activity and before activities depart from existing plans.	The landholder will be fully informed of any proposed changes to the exploration program and any issues that may or do arise during the carrying out of the program. The program will also be undertaken in accordance with the plans to the greatest extent possible
Landholder will raise concerns regarding the creation of access tracks.	Site access	Negative impact on relationship with landholder. Landholder concerns regarding future drill programs.	Low	Unlikely – access to site will be obtained through use of existing tracks to minimise soil disturbance. Only minimal (if any) clearing or physical construction of new access tracks will be required.	Site access will not involve deviation from existing tracks unless with the landholder’s permission. In all instances, existing access paths will be selected so as to minimise disturbance.
Landholder will be dissatisfied as to rehabilitation completed.	Rehabilitation departing from plan and information provided to landholder.	Negative impact on relationship with landholder.	Low	Unlikely - Landholder will be fully informed prior to commencement of the activity.	The landholder will be fully informed of the proposed rehabilitation strategy and will be asked to provide feedback on the proposed strategy and

Risk or threat	Source	Consequence	Risk level	Likelihood	Control measure
					any requests (for example, requests relating to revegetation, leaving tracks open etc).

### 4.3. Case Study 3 – Community consultation strategy

Exploration licence 8398 (EL8398) was granted to Scorpio Resources Pty Ltd in October 2015. The exploration area is about 32 kilometres north-west of Mount Hope in central NSW. There have been several exploration drilling programs undertaken on EL8398 in the last five years.

Scorpio Resources prepared a combined community consultation strategy for all its tenements in the Cobar Basin project, which included EL8398. The ‘Consolidated Community Consultation Strategy – Cobar Basin Project, updated September 2020’ was reviewed during the compliance audit. This strategy reflected the activity impact assessment that had been prepared and was found to comprehensively address the elements of mandatory requirement 3 of the Exploration code of practice: Community consultation. The strategy documented the activity impact assessments which were completed for each different type of exploration activity, including:

- exempt activities
- RC drilling
- IP surveys
- RAB drilling

Separate assessments for each type of exploration activity acknowledges that some activities may have greater impacts on the community than others, and a one-size-fits-all approach to consultation may not be appropriate in addressing the needs of the different stakeholder groups.

Section 6 of the strategy included the identification of various stakeholder groupings with contact details maintained for each stakeholder. A diverse range of stakeholders has been identified, including land holders, government agencies, native title claimants and Aboriginal groups, environmental and community groups, and businesses within the area.

For each stakeholder grouping, an analysis was completed for each exploration activity type which included an assessment of:

- whether the stakeholder grouping was likely to be impacted by the proposed exploration activities, with comments on the nature and scale of those impacts
- whether consultation was required for that stakeholder grouping for that exploration activity type
- comments on the nature of the consultation, including identification of potential communication mechanisms.

Table 6 provides an extract from the stakeholder analysis for IP surveys as an example of the approach adopted by Scorpio Resources.



Table 6: Scorpio Resources stakeholder analysis for IP survey activities

Stakeholder	Likely to be impacted	Likely impact, area of concern, issues and expectations	Consulted	Comments
Landholders and residents/tenants of the site of exploration activities	Y	The land will be affected by the activity. The landholder may raise concerns with access, biosecurity measures to be employed, impacts on current agricultural land use and clearing required to carry out the program. The landholder will expect that activities will be carried out in accordance with the land access agreement and any additional stipulations provided. The landholder may expect tracks to be left open at the completion of activities for future use.	Y	Staff are to ensure compliance with the terms of the land access agreement and other stipulations proposed by the landholder.  Any concerns raised by the landholder during the activity are to be acted upon immediately.  Use of tracks for future use is to be discussed with the landholder as part of the rehabilitation process.
Native title claimant	N	No concerns likely as native title has been extinguished over all proposed exploration areas.	Y	Native title claimant has previously been consulted prior to extinguishment of native title. Should future exploration activities be proposed on new areas, the native title status of the land should be investigated, and contact made with the native title claimant as warranted.

Stakeholder	Likely to be impacted	Likely impact, area of concern, issues and expectations	Consulted	Comments
Local government	Y	Cobar Shire Council may be concerned as to activities being undertaken across Merri Road, including damage to the road and use of Merri Road by vehicles. Cobar Shire Council will expect compliance with the Land Access Arrangement and notification of ongoing activities.	Y	Staff to ensure compliance with terms of the land access agreement and provide updates to the Cobar Shire Council as necessary. Use of Bruce Cullenward Drive, and Merri Road and Bedooba Road not permitted if Cobar Shire Council has posted road closure notices on their website following heavy rainfall. Activities undertaken on Merri Road are to be undertaken swiftly (as reasonably practicable) to avoid impacts on use of the road.
Other crown land bodies	N	No impacts identified due to low impact nature of activities and location of activities (i.e. not on Crown reserves controlled by other Crown land bodies).	N	To be consulted as required for higher impact exploration activities and/or if Crown land bodies are the landholder of land on which activities are to be undertaken.
Minister for the Department	N	Limited impact. Would expect that activities are undertaken in accordance with the conditions of title for the exploration licence.	Y	Minister's consent to prospect in an exempted area (Merri Road and surrounding TSR) has been obtained.
Businesses within the operational area, including service providers	Y	Businesses and service providers in the local area are to be impacted through use of local contractors and services and would expect local services to be used to assist in exploration activities.	Y	Ongoing consultation with businesses in the area is to continue. Local contractors to be used as deemed appropriate.

Stakeholder	Likely to be impacted	Likely impact, area of concern, issues and expectations	Consulted	Comments
Local community and environment groups	N	No impacts identified due to low impact nature of activities and location of activities.	Y	Indirectly consulted with a Mount Hope community organisation through consultation with a member landholder.
NSW Farmers Association	N	No impacts identified due to low impact nature of activities and location of activities	N	To be consulted as required for higher impact exploration activities.
Other – Rural Fire Service Nymagee	N	Limited risk as activities do not have a high fire danger.	Y	To be consulted as required for activities which may cause a higher fire risk.

Section 8 of the community consultation strategy discusses Scorpio Resources' approach to consultation. Examples from the strategy to illustrate some of the key approaches of the consultation program and how they relate to the consultation objectives are described below (as reproduced from the strategy with permission from Scorpio Resources).

- Ensuring stakeholders are provided with reasonable information to understand the nature of activities and likely impacts and benefits of exploration

Scorpio Resources will strive for transparency in its provision of information to landholders and the community to ensure that stakeholders are provided with reasonable information. Information provided will also be presented to stakeholders in a way that is inclusive and easily accessible (i.e. in plain language via an array of different platforms) in order to mitigate the risk that any persons or groups will be unable to access or understand such information. Platforms used to distribute information include email, post and notifications at local establishments. Information regarding the Cobar Basin Project can also be obtained from the website. The website includes a copy of the company's internal Community Consultation Policy that can be downloaded, in addition to a number of links to information resources developed by the Department regarding exploration, land access, community consultation and environmental management. The website also includes a contact page, which provides an opportunity for users to contact Scorpio Resources through an online platform in addition to telephone numbers and office addresses.

- Monitoring and responding to community consultation feedback

A standard 'Daily Activities Report' is prepared to record daily activities undertaken with respect to the Cobar Basin Project, which are stored on Scorpio Resources' electronic database. Additionally, a community consultation log is to be maintained to record dealings with landholders. Scorpio Resources has a "Contact Record" form which is completed following a meeting with a landowner or stakeholder. The Contact Record is filed on an electronic database.

Feedback will also be recorded and reported on annually within the Annual Community Consultation Report.

Any concerns raised by the community or individual landholders will be closely monitored and responded to in a timely manner and will also be analysed to identify any trends of landholders. Concerns raised will be logged within this Community Consultation Strategy, within the relevant appendix documents which relates to the respective activity.

- Managing consultation considering different activities undertaken across tenements and stages of the Cobar Basin Project

It is recognized that the type and extent of exploration undertaken on tenements within the Cobar Basin Project varies depending on the age of the tenement and priority of prospects within each Exploration Licence.

Significant exploration has been undertaken on EL 8398 in comparison to other tenements within the Cobar Basin Project. Accordingly, additional engagement with the community with respect to activities undertaken on EL 8398 is justified. As a priority, Scorpio Resources intends to continue developing a good working relationship with the landholder of the property on which most activities on EL 8398 have been undertaken, including drilling at the Blue Mountain prospect. Field staff are to frequently discuss ongoing exploration with the station

manager, and management are to schedule catch up meetings with the landholder's contact when it is suitable for both parties.

It is expected that as exploration on EL 8398 continues, activities are likely to be determined to be of 'medium impact' in the activity impact assessment. When this occurs, additional consultation will be required to be undertaken in accordance with the Code with respect to activities undertaken on EL 8398, including publishing of notices in community newsletters, providing letters to interested stakeholders inviting comment and placing an advertisement in a local newspaper (the Condobolin Argus).

As the greater Cobar Basin Project progresses, additional stakeholders may need to be consulted with, including new land holders as well as Government bodies (Crown Lands, Local Land Services etc). Specifically, given the amount of Crown land parcels within EL 8723 (prospect Libra), a higher level of Government consultation will be required as the project progresses.

It is imperative that Scorpio Resources continues to develop relationships with the wider community through engagement at the Royal Hotel at Mount Hope on a frequent basis to give the community frequent face-to-face opportunities to discuss with Scorpio Resources all activities undertaken across the Cobar Basin Project.

#### ■ Overcoming barriers to public participation

The two main barriers to public participation recognised as relevant to the Cobar Basin Project are perceptual barriers and logistical barriers. Perceptual barriers relate to how different stakeholders may value or not value community participation. Logistical barriers relate to the physical barriers to public participation whether due to geographical or time constraints.

To overcome perceptual barriers to public participation, Scorpio Resources encourages stakeholders to discuss the project and any thoughts they may have on activities being undertaken during discussions with the community at local events and during negotiations of land access agreements. Land holders where land access arrangements are sought are encouraged to have input into the exploration activity process, including methods of rehabilitation and appropriate means of access. The expected level of participation and commitment is expressed to landholders during land access negotiations and throughout the undertaking of activities.

To overcome logistical barriers to public participation, Scorpio Resources aims to conduct community consultation early in the process of completing exploration to ensure interested stakeholders are provided with adequate opportunity and time to make representations about proposed activities. Additionally, the company's website provides various methods (email, telephone) for the public to use to contact Scorpio Resources should they wish to raise concerns or receive further information related to the project. Contact via email or telephone is available regardless of the interested stakeholder's physical location.

Collectively, both physical (face-to-face) and remote (telephone/email) channels of communication encourage community feedback and allow for Scorpio Resources to identify any potential issues of concern to any interested stakeholder.

These examples show the level of detail and depth of the consultation strategy prepared by Scorpio Resources. They also demonstrate the type of information provided and the mechanisms for disseminating information about the project. The section on overcoming barriers to public participation acknowledges that Scorpio Resources has considered that the form and location of consultation

activities may need to vary depending on the demographics and perceptions of the community to be consulted.

Section 9 of the strategy outlines the mechanisms for revising the community consultation strategy to ensure that the objectives set out in the strategy are appropriate to the exploration activities and stakeholders concerned, and to ensure that the strategy continues to meet the objectives of the Code.

## 4.4. Case Study 4 – Detailed prospecting plans

Section 140 of the *Mining Act 1992* states, ‘the holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land’. The access arrangement is required to be agreed in writing between the holder of the prospecting title and each landholder of that area of land. For the exploration audits conducted during 2020-2021, most exploration licence holders had negotiated access agreements for a defined period (typically two years) using a standard access agreement template.

Flemington Mining Operations Pty Ltd (Flemington Mining), the holder of EL7805 in central NSW, took a different approach to the negotiation of access agreements. Rather than negotiating access agreements for a longer period, Flemington Mining opted to negotiate access agreements for each specific exploration activity. For example, an access agreement was negotiated with each land holder for the IP survey that was recently completed. A separate access agreement was negotiated for the aircore drilling program, even though some of those agreements were with the same land holders for the IP survey, and the periods may have overlapped.

During the audit, the Managing Director of Flemington Mining advised that despite being additional work, the company chose to opt for the access agreement per exploration activity because it gave better certainty to both the land holder and the company and clearly set out the expectations of each party. Inspections are undertaken with the land holder during the negotiation period and again after the exploration activity has been completed. This allows for any issues of concern to be raised early and addressed before further exploration activities are undertaken.

As an attachment to each land access agreement, Flemington prepares a detailed prospecting plan, in consultation with the land holder. The prospecting plan states that the plan may only be actioned after it has been approved by the land holder. In this way, the land holder knows what to expect, and can hold the licence holder to the obligations committed to in the agreed prospecting plan.

The prospecting plans for the recent IP survey and the aircore drilling program were provided by Flemington Mining as examples of the process. As documented in the introduction to the plan, the prospecting plan for the aircore drilling program detailed:

- the type, number and location of drill holes

- the layout of the drill pattern, including hole spacing distances
- the timeframe for drilling (start date and end date)
- the sequencing pattern of drilling
- the likely scheduling of drilling (to allow for 12-monthly farm business planning)
- the width, height and weight and number of all drill rigs and any heavy vehicles
- the number of light vehicles on site
- suitably scaled maps clearly showing the proposed location of the number and type of drill holes, on a scale to the satisfaction of the landholder. The maps are of sufficient resolution to identify relevant features of the prospecting area and detail:
  - paths of entry
  - paths of prospecting – i.e. where prospecting machinery will travel and prospecting activity will occur
  - the location of the area of interest for prospecting
  - the boundary of the exploration licence
  - the location of the areas where access is prohibited under this agreement (e.g. dwellings, gardens, substantial improvements, cropland, waterways, airstrips, etc).

It was also noted that the prospecting plan for the aircore drilling program referred to the rehabilitation of the drill sites. This demonstrates that rehabilitation is discussed and agreed with the land holder prior to exploration activities commencing. This is in keeping with the requirements of mandatory requirement 2 of the Exploration Code of Practice: Rehabilitation which requires that the rehabilitation objectives and completion criteria must be developed in consultation with the relevant land holders.

The community consultation risk assessment for EL7805 identified several risks relating to land holders unwilling to grant access or raising issues during exploration activities. The control measures identified in the risk assessment included *“the landholder will be fully informed of any proposed changes to the exploration program and any issues that may or do arise during the carrying out of the program. The program will also be undertaken in accordance with the plans to the greatest extent possible”*.

Flemington Mining is using the detailed prospecting plans as the mechanism to inform the land holders about the exploration activities. The documented plans signed by the land holder can be used to provide evidence that the risk control is implemented and appears to be effective in managing land holder relationships and expectations.