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Steve Orr
Director Compliance
NSW Resource Regulator

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Dear Mr Orr,

WaterNSW Submission - Mining Amendment (Standard Conditions of Mining Leases - Rehabilitation) Regulation 2020 and associated mandatory requirements

WaterNSW appreciates the opportunity to provide feedback on the proposed amendments to the *Mining Regulation 2016*. It is understood that the proposed amendment would give effect to operational rehabilitation reforms in order to improve clarity and enforceability of rehabilitation outcomes for all mines in NSW. The comments provided by WaterNSW below relate to the declared Sydney Drinking Water Catchment Area.

Mining in the declared Sydney Drinking Water Catchment area

In the declared Sydney Drinking Water Catchment (SDWC), mining can be divided between the Special Areas) and other areas within the broader catchment. There are currently two active mines in the Special Areas – Dendrobium and Metropolitan and five active mines in the broader catchment (Springvale, Angus Place, Clarence, Bulli Seam and Tahmoor). Dendrobium Mine, Hume Coal and Wollongong Coal have submitted mine expansion proposals that are currently being assessed by Department of Planning, Industry and Environment. There are also several approved State significant quarry developments in the catchment, particularly near Berrima and Marulan in the south and Lithgow in the west.

Independent triennial audits of the declared SDWC completed in 2016 and 2019 and tabled in the NSW Parliament in 2017 and 2020 respectively, has identified 'Mining in the Special Areas' as a priority issue for the catchment.

WaterNSW Role and Responsibilities

The *Water NSW Act 2014* sets out the objectives and functions of WaterNSW. A key objective for WaterNSW is to ensure that the SDWC and associated water management works are managed and protected.

WaterNSW Mining Principles

To make its advice transparent and consistent, WaterNSW has developed a set of principles (<https://www.watnsw.com.au/water-quality/catchment/mining/principles>) that underpin its decision-making in relation to managing mining impacts in the declared SDWC. WaterNSW has developed the guiding principles for consideration in the environmental planning and approval process for all mining activities, including exploration, extraction, production, rehabilitation and closure.

Key Issues

Declared Sydney Drinking Water Catchment (SDWC) area and Special Areas

The proposed rehabilitation reforms require mining lease holders to prevent or minimise harm to the environment where harm to the environment has the same meaning as in the *Protection of the Environment Operations Act 1997*. Lease holders are also required to rehabilitate land and water disturbed by activities in the lease area. The *Mining Act 1992* defines rehabilitation as the treatment or management of disturbed land or water for the purpose of establishing a safe and stable environment.

WaterNSW requests that consideration be given to including conditions that ensure any rehabilitation activities protect and improve the land and water environment within the SDWC and Special Areas. WaterNSW also requests that any rehabilitation management plans for mines operating in the SDWC and Special Areas must be prepared and implemented in consultation with WaterNSW.

WaterNSW would appreciate the opportunity to review and request special conditions on mining leases in relation to rehabilitation for all mining within the declared SDWC and Special Areas.

Rehabilitation Requirements and Outcomes

The Society for Ecological Restoration Australasia (SERA) has published the National standards for the practice of ecological restoration in Australia:
<http://www.seraustralasia.com/standards/National%20Restoration%20Standards%202nd%20Edition.pdf>.

The report discusses appropriate standards for both restoration and rehabilitation in various management sectors in Australia including mining. The study recommends that: *“Where mining is undertaken in natural areas, the highest standard of ecological restoration is expected by society as exemplified in the regulatory process. This means that a five-star recovery should be the goal of any restoration project involving a natural area”*.

The standard conditions should consider the differentiation between natural, semi-natural and disturbed sites and look to include the highest standard of ecological restoration for land and water within Special Areas.

Operational and Closure Phase Improvements

A key issue in the operation and closure phase of the mining cycle is the uncertainty in predicting the impacts of mine closure actions and managing any consequent adverse environmental impacts. This was highlighted by the recent water quality impacts due to mine water discharges in the Wingecarribee River resulting from Berrima colliery's commencement of underground mine closure processes.

The proposed rehabilitation reforms and draft standard conditions are more focused on land (landform and land use) and less on water. Mine closure plans are closely linked with rehabilitation plans and required environmental outcomes. The 2019 Independent Expert Panel on Mining in the Catchments (IEPMC) reports and recommendations have also highlighted this issue and need to be considered as part of the reform of rehabilitation requirements and standard conditions.

Please contact me if you wish to discuss matters raised in this submission.

Yours sincerely



Jessie Evans
A/Manager Catchment Protection