

Authorisation	Non- Coal Exploration Licences
Licence Condition	Drilling Notification condition
Legislation	Clause 12(2)(c) of Schedule 1B of the <i>Mining Act 1992</i>
Decision maker	Anthony Keon Executive Director, NSW Resources Regulator Department of Regional NSW

DECISION TO VARY AN AUTHORISATION

As authorised by Clause 12 of Schedule 1B of the *Mining Act 1992* (Act), I Anthony Keon, having delegated authority from the Minister, have decided to vary (omit) the *Drilling Notification* condition imposed on the non-coal Exploration Licences listed on the attached Schedule.

This decision takes effect from 31 August 2020.

REASONS FOR DECISION

Legislation

1. Clause 12 (1) of Schedule 1B of the Act provides that the decision-maker may vary an authorisation (including the conditions of an authorisation).
2. Clause 12 (2)(c) of Schedule 1B of the Act provides that a variation of an authorisation may include the omission of a condition.
3. Clause 12 (5) of Schedule 1B of the Act requires the decision-maker to:
 - (a) give the holder of the authorisation notice of the decision, and
 - (b) invite the making of submissions to the decision-maker about the proposed decision and provide at least 28 days to make a submission, and
 - (c) take into consideration any such submission after the submission period has expired.
4. Clause 12 (6) of Schedule 1B of the Act requires the decision to be given in writing to the licence holder.

Reasons for decision

5. Section 363(1) of the Act provides that the Minister may delegate any functions conferred under the Act to another person.
6. The Minister has delegated the functions to vary an authority under Clause 12 (1) of Schedule 1B of the Act to the Executive Director of the NSW Resources Regulator (Regulator).

Background

7. In August 2016, the Department of Primary Industries (DPI) advised the (then) Department of Resources and Energy (DRE) that it no longer required notification about the commencement of drilling for non-coal exploration licences granted under the *Mining Act 1992* (Act). The condition requires licence holders to notify DPI Water of proposed drilling activities 28 days in advance of the commencement of works.
8. Since 2015, the regulation of aquifer impacts has been managed by the introduction of the Improved Management of Exploration Regulation (IMER) Standard Conditions on all Activity Approvals issued under the Act requiring compliance with the *Exploration Code of Practice: Environment Management, July 2015*.
9. In June 2019, the NSW Minerals Council wrote to the Resources Regulator and the (then) Department of Resources and Geoscience (DRG) expressing concerns about the condition causing unnecessary and unwarranted delays for exploration licence holders. The Council also highlighted that the condition could be removed as it was obsolete.
10. Similar representations have been made by the Association of Australian Mining and Exploration Companies.
11. The Resources Regulator has consulted with Mining, Exploration and Geoscience (MEG) who have also agreed that the condition is obsolete and is no longer required.
12. On 2 October 2019, I wrote to non-coal exploration licence holders inviting submissions in response to my proposed decision to revoke the *Drilling Notification* condition by no later than 4.00 pm on 4 November 2019.
13. The Regulator also wrote to the NSW Minerals Council, Association of Mining and Exploration Companies and Exploration and Mining Titles Agents advising them of my proposed decision to omit the *Drilling Notification* condition from non-coal exploration licence conditions.
14. No submissions of objection were received to my proposal, and on 26 November 2019, I omitted (revoked) the *Drilling Notification* condition from non-coal exploration licences effective from 27 November 2019.

15. A list of those affected licence holders were provided in a schedule that accompanied my decision, which is published on the Regulator's website at <https://www.resourcesregulator.nsw.gov.au/compliance-and-enforcement/mining-act-cancellations-and-suspensions>.
16. Following my decision, a number of exploration licence holders and mining consultants contacted the Regulator to advise a number of non-coal exploration licences were not included in the decision schedule.
17. The Regulator subsequently identified a small number (25) of non-coal exploration licences which were inadvertently omitted during the revocation process and not included in the schedule which accompanied my decision of 26 November 2019.

Representations

18. On 21 July 2020, I wrote to those licence holders inviting submissions in response to my proposed decision to omit the *Drilling Notification* condition by no later than 4.00 pm on 19 August 2020.
19. To date, no submissions have been received objecting to my proposed decision.

Considerations and findings

20. In making my decision, I have had regard to the objects of the Act.
21. I am satisfied that the requirements of clause 12(5) of Schedule 1B to the Act have been met and that each licence holder was provided an opportunity to provide a submission in response to my proposed decision. In this regard, I note that no submissions objecting to my proposed decision were received.
22. I am satisfied that the *Exploration Code of Practice: Environment Management, July 2015* provides guidance to industry about the management of potential risks to aquifers arising from exploration activities. I am further satisfied that the Code of Practice can be enforced by the Regulator.
23. I am also satisfied that those exploration licences that do not have the standard IMER conditions can be appropriately regulated through the Regulator's exploration activity approval process and routine compliance and enforcement programs.
24. I am mindful of the need to reduce regulatory burden for licence holders and note the position of stakeholders that the *Drilling Notification* condition is no longer required.
25. Therefore, based on the material before me, I am satisfied that circumstances exist that constitutes grounds to omit the *Drilling Notification* condition imposed on non-coal exploration licences.
26. I therefore omit the *Drilling Notification* condition from the non-coal exploration licences listed in the attached schedule.

Mining Act – Variation of Authorisation

Reasons for decision



Regional
NSW

Date of decision: **28 August 2020**

Anthony Keon

Executive Director

NSW Resources Regulator

Note: In accordance with its Public Comment Policy, a copy of this decision will be published on the NSW Resources Regulator's website: www.resourcesregulator.nsw.gov.au