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NSW Office of Chief Scientist & Engineer
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Dear Sir/Madam

EPA Submission to the Independent Expert Panel for Mining in the Catchment

The Environment Protection Authority (EPA) acknowledges the importance of protecting the Greater Sydney Water Catchment Special Areas from the impact of coal mining activities.

The EPA works closely with a range of government, industry and community stakeholders to help protect the environment and minimise health risks to drinking water quality from the effects of pollution and waste in the catchment area.

The EPA's primary role in relation to coal mining in the catchment area is as the regulator of pollution and waste from coal mining activities. This includes the regulation of activities that require an environment protection licence under the *Protection of Environment Operations Act 1997* (POEO Act), informing land use planning decisions and responding to pollution incidents.

The attachment to this letter (Attachment A) provides further information on the EPA's role to assist the independent panel in providing expert advice to the Department of Planning and Environment on the impact of mining activities in the Greater Sydney Water Catchment Special Areas.

Please contact Peter Bloem, Manager Regional Operations Illawarra on telephone 4224 4117 or epa.illawarra@epa.nsw.gov.au if you have any questions regarding this submission.

Yours sincerely

 21.3.19

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Acting Regional Director Metropolitan
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Attachment A - EPA Submission to the Independent Expert Panel for Mining in the Catchment

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ATTACHMENT A

EPA Submission to the Independent Expert Panel for Mining in the Catchment

Scope

The EPA notes the Terms of Reference (ToR) issued by the NSW Chief Scientist and Engineer which primarily relate to risks to the total water quantity and holding capacity of surface and groundwater systems, including swamps and reservoirs, and the types and reliability of techniques used to predict, monitor, assess and report on mining effects, impacts and consequences.

It is also noted that the ToR refers to the 2008 Southern Coalfield Inquiry (Impacts of Underground Coal Mining on Natural Features in the Southern Coalfield- Strategic Review). The EPA (as part of the Office of Environment and Heritage) provided a detailed submission to the Southern Coalfield Inquiry.

This submission focuses on EPA activities in relation to the Greater Sydney Water Catchment Special Areas only. The EPA is also undertaking a range of functions to protect the broader Sydney Drinking Water catchment area. Further advice on these functions can be provided if required.

Overview

The EPA works closely with a range of government, industry and community stakeholders to help protect the environment and minimise health risks to drinking water quality. The EPA's functions include the regulation of activities that require an environment protection licence under the *Protection of Environment Operations Act 1997* (POEO Act), informing land use planning decisions and responding to pollution incidents. The EPA also provides input to agencies on a range of issues that can impact on water quality, such as rehabilitation of derelict mines.

The EPA has a Memorandum of Understanding (MoU) with WaterNSW to help achieve sound environmental and water quality outcomes, generally, and especially in declared catchment and controlled areas. The memorandum establishes a cooperative relationship, develops consultative processes to consider operational, strategic, and public health and environmental issues and allows for exchange of data and information. The most recent MoU was signed and enacted on 19 December 2016. The EPA will continue to work closely with WaterNSW through a Strategic Liaison Group to help provide reliable and consistent environmental regulatory services. The MoU can be viewed on the WaterNSW website at the following link www.waternsw.com.au/about/legislation/memoranda-of-understanding

In undertaking its functions, the EPA also takes into account the latest independent audit of the health of the declared Sydney catchment area (the Catchment Audit) and is implementing the recommendations of the NSW Auditor General's report (the Report) into the EPA regulation of water pollution in drinking water catchments and illegal disposal of solid waste. Further information on the Catchment Audit and the Report is provided below.

EPA Regulation

The EPA regulates specified activities under the *Protection of Environment Operations Act 1997* and enforces environmental requirements through licensing, monitoring and auditing. The EPA also responds to major pollution incidents and can impose fines, stricter operating conditions, or clean up notices. The EPA also:

- publishes environment protection licenses and regulatory information on the EPA Public Register.

- requires monitoring data collected by licensees as a condition of an environment protection licence to be made publicly available.
- requires licensees to prepare Pollution Incident Response Management Plans which require a pollution incident to be immediately notified to relevant authorities (including EPA) when material harm to the environment is caused or threatened.

The EPA's regulatory functions in relation to underground coal mining includes water discharges, air and noise emissions and management of waste and chemicals. In the case of underground coal mines, these emissions are generally associated with the "pit top" surface facilities of the mine (e.g. coal stockpiles, coal preparation and handling plants, coal loading facilities, coal wash emplacements) and discharge of intercepted groundwater rather than the underground mining activity itself.

Subsidence and aquifer related impacts associated with underground coal mining such as water quantity impacts (including losses or changes to surface and groundwater systems) are not regulated by the EPA, they are managed and regulated under other legislation such as through the planning process, and water resource management frameworks.

There are no pit top operations that are regulated by the EPA under an existing environment protection licence in the Special Areas.

Environment protection licences must be reviewed at least every five years and can also be varied at any time where the EPA considers that evidence indicates that changes are necessary to better protect the environment or community. Annual returns of licence information must be submitted by licence holders and these are reviewed by the EPA under a Risk Based Licensing framework. The EPA can also seek other information and studies from licence holders using a range of statutory instruments and can set Pollution Reduction Programs in licences, where required, to improve the control of air, noise, water pollution (point source discharges) matters and the management of waste.

There is a long history of coal mining under the Special Areas. Some mining activities in the Special Areas predate environment protection and environmental planning laws by many years which presents many challenges. The EPA has worked closely with WaterNSW and other relevant agencies such as DPE and the Resources Regulator, to address redundant or derelict mining infrastructure in the Special Areas that may pose a risk to water quality or land pollution. An example being the 2017/2018 audit program described in 'Compliance Audit Program – Catchment Special Areas: Management of Mining Infrastructure in Special Areas' January 2019.

EPA role in Development Assessment

Mining companies have made commitments to the community and government about expected environmental and rehabilitation outcomes under a range of planning approvals. The EPA expects them to honour these commitments.

The EPA has provided detailed submissions on mining proposals in the Southern Coalfields and Special Areas. These include:

- Dendrobium Mine
- Metropolitan Coal
- Wollongong Coal (Russell Vale & Wongawilli)
- Bulli Seam Operations Project.
- Hume Coal Project

EPA submissions may be accessed at the DPE's Major Projects Register at the following link <http://majorprojects.planning.nsw.gov.au/> or a copy can be provided upon request.

The EPA's focus in these planning proposals is on discharges and emissions from the mine that may require environment protection licence conditions to be set. The EPA's framework for making

licencing decisions is set out under the POEO Act and a range of policies and guidelines to help inform environmental assessments and EPA decisions in relation to air, noise, water and waste related matters.

Audit of the Sydney Drinking Water Catchment.

The *Water NSW Act 2014* requires an independent audit of the health of the declared Sydney catchment area at least every three years. The latest audit of Sydney's water supply catchment (the Catchment Audit) was prepared by Alluvium Ecological and covers the period 1 July 2013 to 30 June 2016. The EPA provided input to the development of the 2016 Catchment Audit. The Catchment Audit report was tabled in Parliament in August 2017 and can be viewed on the WaterNSW website www.watarnsw.com.au.

The Catchment Audit found variable conditions in different parts of the catchment, with trends improving, worsening or stable in response to local land use changes, as well as catchment-wide pressures such as climate change. The Catchment Audit recommended action where it found a worsening trend for multiple water quality indicators. Key findings and recommendations relate to mining in Special Areas, land degradation, sewerage infrastructure, bushfire risks and data quality and monitoring.

The Catchment Audit made one recommendation related to the EPA for upgrades of major sewage infrastructure in the Wingecarribee area. The EPA has reviewed licence conditions and has actions in place to upgrade these systems and improve environmental performance.

NSW Auditor General's report into the EPA regulation of water pollution in drinking water catchments

The NSW Auditor General's report (the Report) into the EPA's regulation of water pollution in drinking water catchments and illegal disposal of solid waste was released in late June 2018. The report can be viewed on the Audit Office website www.audit.nsw.gov.au.

The report made a number of recommendations in relation to how the EPA implements its regulatory framework for water pollution in drinking water catchments and illegal solid waste disposal. The EPA is implementing the recommendations of the report including providing greater training, advice and support to officers and improving governance and oversight of regulatory activities.

As an outcome of the Report the EPA has committed to review the impact of pollution from environment protection licences that have conditions to discharge to the Sydney drinking water catchment. The EPA will work with other government agencies to ensure licence conditions will continue to protect water quality from the impacts of pollution.