
Exploration and mining compliance and rehabilitation report

2022–23

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Resources Regulator
Department of Regional NSW

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1 **2**

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2 **3** **4** **5**

2 AUTHORISATIONS, PLANT REGISTRATION, LICENCES AND EXEMPTIONS PRESS 2

3 COMPETENCE, PRACTISING CERTIFICATES AND MUTUAL RECOGNITION PRESS 3

4 MINE SAFETY GENERAL PRESS 4

5 MINING ACT COMPLIANCE PRESS 5

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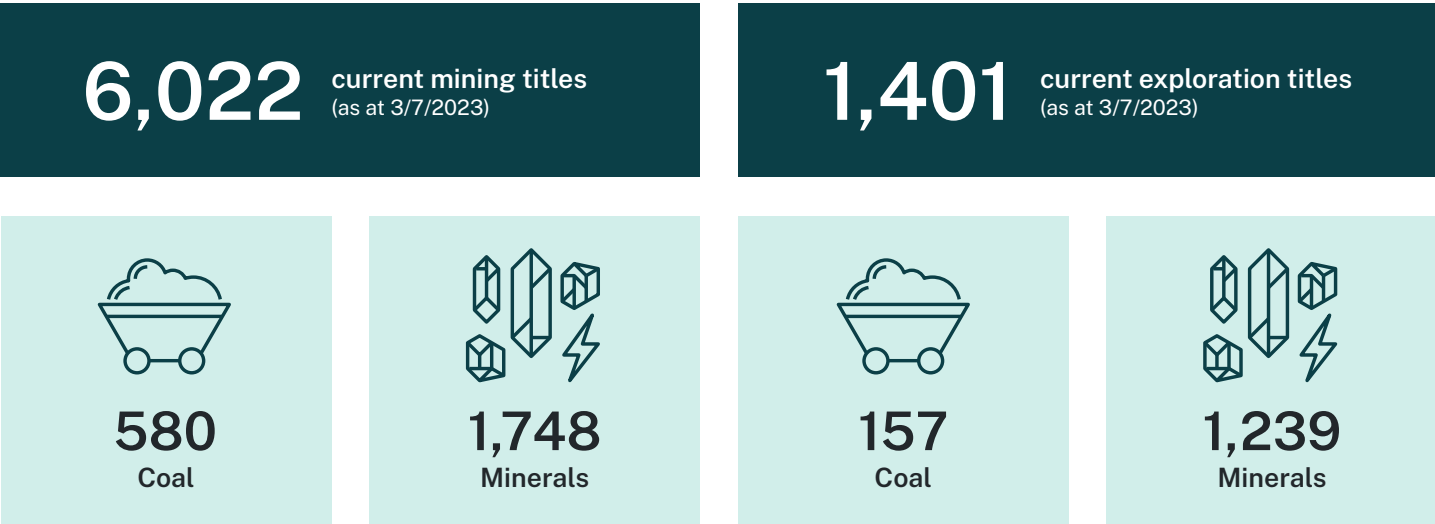
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NSW mine compliance and rehabilitation overview 2022–23

We conduct compliance and enforcement activities under the *Mining Act 1992*, with a focus on mine rehabilitation.

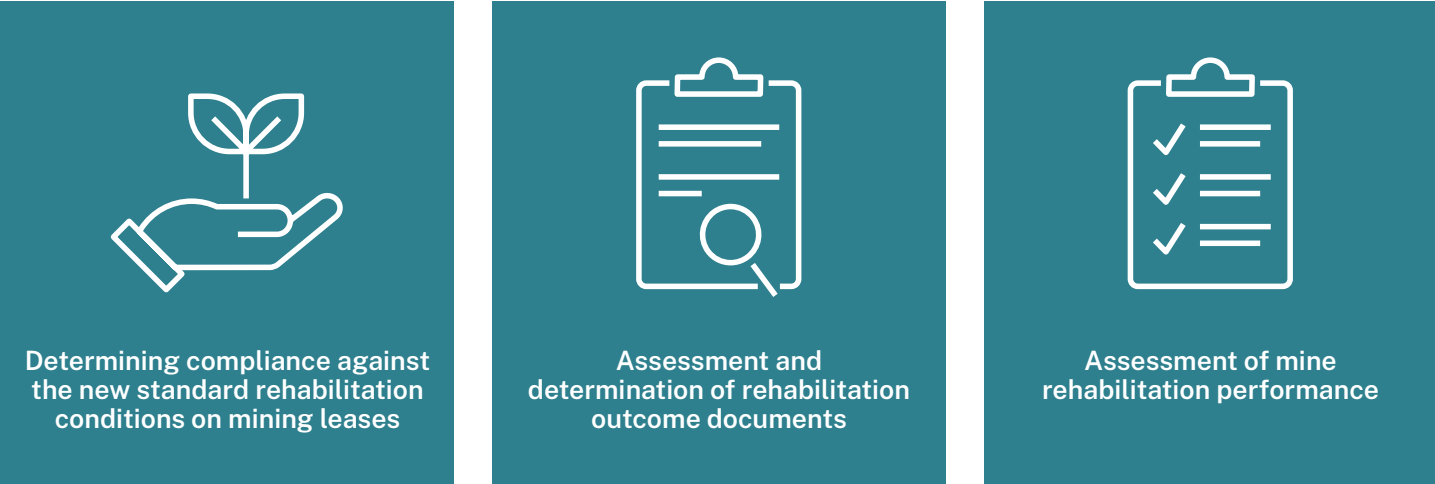
Current titles



Source: Titles Administration System (TAS) generated 3/7/2023. Petroleum titles excluded.

Our compliance priority activities

From 1 July 2022 to 30 June 2023, our compliance priorities were:



Our assessment programs

From 1 July 2022 to 31 December 2022, our assessment programs were:



Compliance audits



Mining Act compliance assessments - opal mining sector



Review of quarries sector

From 1 January 2023 to 30 June 2023, our assessment programs were:



Compliance audits



Mining Act compliance assessments - opal mining sector



Revegetation practices in rehabilitation

Engaging with industry



2,806

newsletter subscribers



19

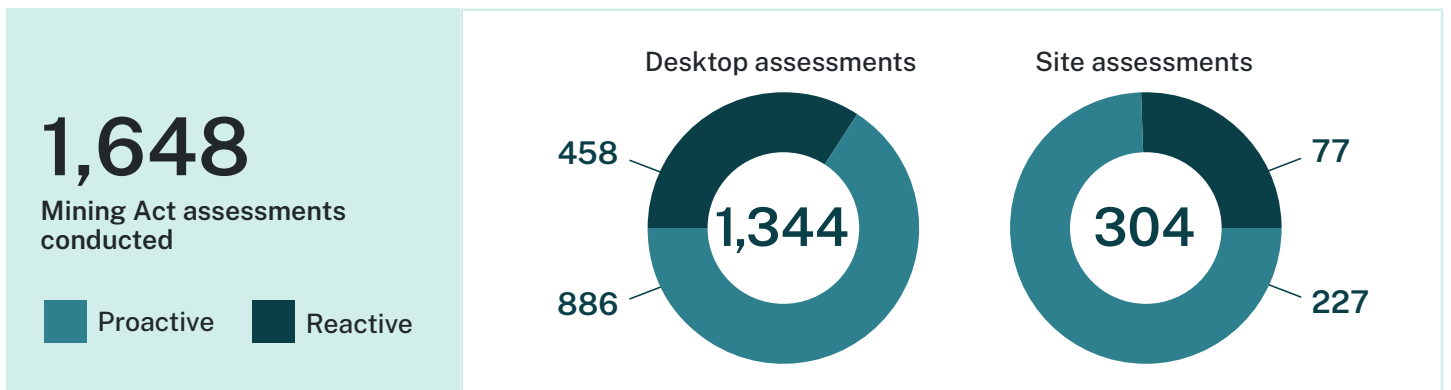
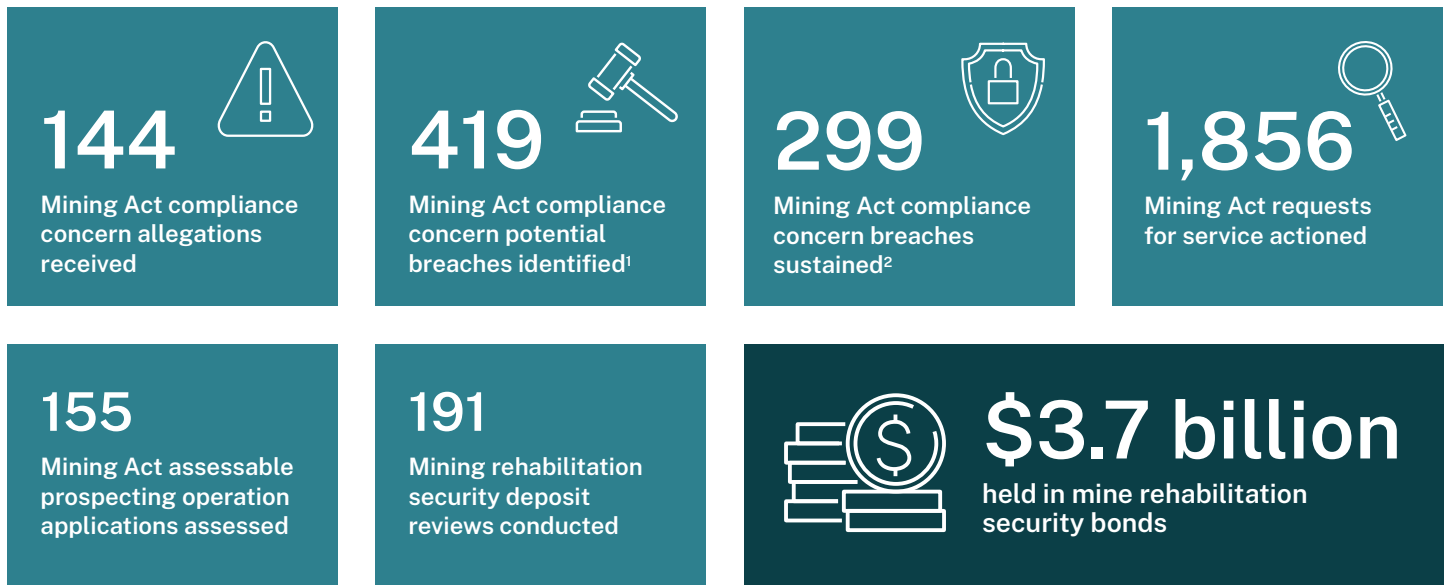
industry publications



16

audit reports

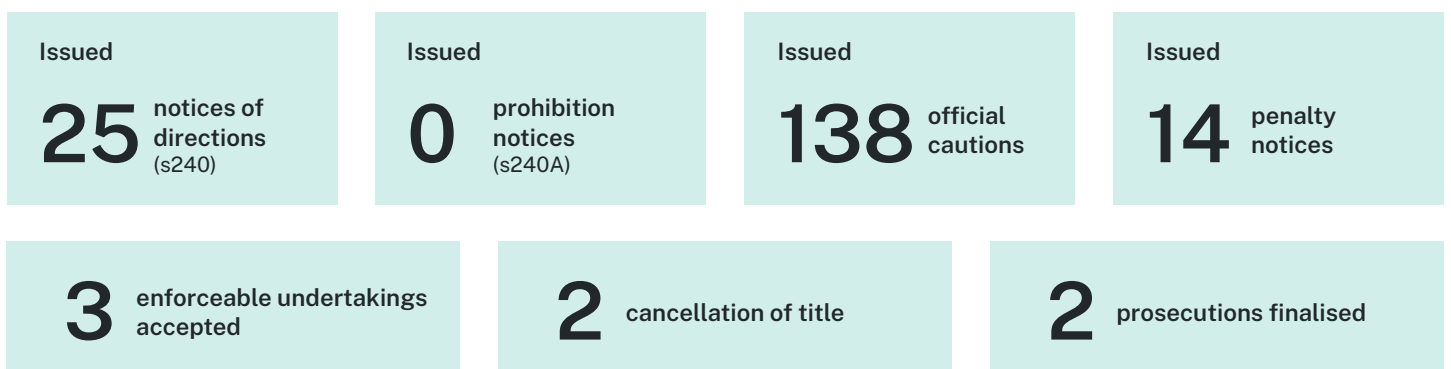
Our regulatory activities



¹ Not all Mining Act compliance concern potential breaches identified in FY23 are finalised in FY23.

² Mining Act compliance concern breaches sustained in FY23 may include potential breaches identified prior to FY23.

Our regulatory actions



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Rehabilitation

We are responsible for regulating rehabilitation under the *Mining Act 1992* and the conditions of the relevant exploration licences and mining lease.

Rehabilitation is the treatment or management of land or water that has been disturbed by exploration or mining to ensure a safe and stable environment. Rehabilitation must achieve a final outcome as required by the development consent of a mine, which may include but is not limited to the re-establishment of native ecosystems, agriculture and a variety of rural, urban and industrial land uses.

The NSW Resources Regulator (the Regulator) is responsible for regulating rehabilitation under the *Mining Act 1992* and the conditions of the relevant mining lease, which must ensure that rehabilitation commitments as set by a development consent are achieved.

There are strong laws in place to ensure lease holders undertake rehabilitation to achieve an approved final land use and these laws have been strengthened with amendments to the Regulations under the *Mining Act 1992*. A range of regulatory tools are utilised to ensure rehabilitation is undertaken in a timely manner and in accordance with approved commitments. This includes being able to direct a former holder of an exploration licence or mining lease to complete rehabilitation works even after a mining title has been relinquished.

Rehabilitation security deposits

All exploration and mining title holders are required to lodge a security deposit that covers the full rehabilitation costs. As of July 2023, the NSW Government held about \$3.70 billion in security bonds for rehabilitation of exploration and mining impacts.

We regularly access the surface disturbance (or proposed disturbance) of a mine or exploration site to calculate the security deposit, this is known as the assessed deposit. Before partial or full security bonds are returned, evidence must be provided to demonstrate rehabilitation objectives have been met and final approved landform has been implemented.

During the reporting period, we reviewed 333 assessed deposits. Of these, 226 related to exploration sites, 105 related to mine sites and a further 2 were determined by the Minister on appeal.

Operational rehabilitation reforms

New standard conditions now apply for all mining leases and are set out in Schedule 8A of the Mining Regulation 2016. For large mines with an Environment Protection Licence (EPL) the regulations came into effect on 2 July 2022. For mines without an EPL (small mines) the regulations came into effect on 2 July 2023, with provision of rehabilitation documents to the Regulator by 1 March 2024. The reforms will bring greater consistency and ensure all large mines across NSW are subject to one standard set of conditions.

The conditions support best practice mine site rehabilitation by ensuring progressive rehabilitation occurs in a manner that achieves sustainable final land uses following the completion of mining.

Lease holders will be required to demonstrate that the rehabilitation of land and water disturbed by mining is safe and stable and can support the future final land use(s) approved through the development consent. Lease holders will be required to:

- prevent or minimise harm to the environment
- rehabilitate land and water as soon as reasonably practicable after disturbance occurs
- achieve the approved final land use for the mining area as set out in the:
 - rehabilitation objectives statement
 - rehabilitation completion criteria statement
 - final landform and rehabilitation spatial plan (large mines only)
- undertake a rehabilitation risk assessment and implement measures to eliminate, minimise or mitigate risks to achieving the final land use

- prepare and implement a rehabilitation management plan (large mines only)
 - prepare an annual rehabilitation report which describes the progress of rehabilitation over the annual reporting period
 - prepare a forward program which includes the schedule of mining and rehabilitation activities for the next 3 years demonstrating how rehabilitation will occur as soon as reasonably practicable after disturbance.
-

Guidance material for Industry

For current guidance material including mine rehabilitation, form and way documents, guidance material and fact sheets please [visit the mine rehabilitation page on the NSW Resources Regulator website](#).

Compliance and enforcement

The Resources Regulator has a risk-based and outcomes-focused approach to compliance and enforcement. While the laws we administer set minimum standards that industry must adhere to, we seek to encourage a positive compliance culture where industry demonstrate best practice by actively adopting measures and practices over and above legislative requirements.

Compliance priorities

Determining compliance against new standard rehabilitation conditions on mining leases

Sector: Mining leases

Period July 2022–June 2023

We are improving compliance and reporting requirements for rehabilitation through an amendment to the Regulation under the *Mining Act 1992*, which prescribes new mining lease conditions relating to rehabilitation and sets clear, achievable and enforceable requirements for rehabilitation. The Regulation commenced on 2 July 2021. The new standard rehabilitation conditions apply to all new mining leases issued from this date. For mining leases that were in force before this date, the conditions apply for large mines on 2 July 2022 and for small mines on 2 July 2023. These new rehabilitation conditions will replace existing rehabilitation and environmental management conditions on current leases.

During the period, we conducted a program to review progress with the large mines in their transition to complying with the new conditions. As part of our approach, we conducted a series of webinars (published on our website) and conducted over 100 individual engagement sessions with industry to enable compliance and to address any identified transitional issues.

Assessment and determination of Rehabilitation Outcome Documents

Sector: Large mines

Period: July 2022–June 2023

A key requirement of the new mining lease conditions under clause 12 of Schedule 8A of the Mining Regulation relates to the submission of rehabilitation outcome documents for approval of the Secretary. In deciding whether to approve a rehabilitation outcome document, the Secretary must consider the extent to which the document is consistent with the final land use for the mining area and any other matters the Secretary considers relevant.

A key focus of the Regulator over the period was on the assessment and determination of the rehabilitation outcome documents for all large mines to ensure consistency with rehabilitation obligations specified in consent conditions for specific mine sites. This included an appraisal of rehabilitation objectives statements and the final landform and rehabilitation plan to ensure all relevant aspects of rehabilitation are identified so that appropriate rehabilitation completion criteria can be set for specific mines.

The process of determining rehabilitation outcome documents that commenced during the period will provide certainty for industry and the community as to the measured and auditable defined end point for when rehabilitation can be deemed to have reached the point of meeting the approved final land use.

Assessment of mine rehabilitation performance

Sector: Mining leases

Period: July 2022–December 2022

Rehabilitation is a critical element of NSW mining operations and is principally regulated under the conditions of the relevant mining leases granted under the *Mining Act 1992*. Planned inspection programs were undertaken on selected mines to determine compliance with obligations as well as performance of on-the-ground rehabilitation. Key focus areas included how a mine is:

- progressively rehabilitating in accordance with statutory obligations
- complying with statutory Section 240 directions that may have been issued following rehabilitation targeted assessment programs
- addressing recommendations identified by the Regulator following previous proactive assessments
- identifying risks and implementing appropriate controls to achieve effective rehabilitation outcomes.

Mining Act assessment programs

For further information [visit the compliance page on the Resources Regulator website](#).

Compliance audits

Sector: Exploration licences

Period: July–December 2022

Our compliance audit program assesses specific requirements of the *Mining Act 1992* and examines the operational performance of mining and prospecting operations and compliance with legislated requirements and conditions of authorisation. The audit program is developed using a risk review process to identify the audit focus. A risk assessment methodology (broadly based on AS/NZS ISO 31000:2018 Risk management – Guidelines) is used to develop a broad risk profile for each sector to assist in the development of the audit program. The audit program will focus on:

- general compliance with the *Mining Act 1992* and Regulation; and conditions of authorisation
- community consultation in exploration
- exploration environmental management and rehabilitation
- New Frontiers cooperative drilling grant program.

For the June 2022–December 2022 period, 7 audits of exploration activities over 8 exploration licences and 4 mining audits were completed and published. A further 3 exploration audits across 4 exploration licences and 2 mining audits were completed and published during the period January 2023–June 2023.

We undertake compliance audits of mining operations and exploration activities to assess whether title holders are complying with specific requirements under the *Mining Act 1992*. The audits also examine the operational performance of mining operations in achieving sustainable and safe operations.

Compliance audit reports completed and published during the reporting period are listed below. For further information [visit the auditing page on the Resources Regulator website](#).

Table 1. Compliance audit reports completed and published during the reporting period

Compliance audit report	Title holder	Date published	Location
EL 8153 Sugarloaf Project	Krakatoa Australia Pty Ltd	Jul 2022	Orange
EL 8379 Mt Gilmore Project	Mt Gilmore Resources Pty Ltd	Jul 2022	Grafton
ML 1660 Timor Limestone Mine	Stoneco Pty Ltd	Jul 2022	Nundle
EL 5674 Webbs Project	Webbs Resources Pty Ltd	Jul 2022	Emmaville
EL 8691 and EL 9202 Exploration Drilling Programs	Awati Resources Pty Ltd	Jul 2022	Tibooburra
EL 8735 Razorback Project	Colossus Metals Pty Ltd	Sep 2022	Wellington
EL 5922 Discovery Ridge Project	LFB Resources Pty Ltd	Sep 2022	Blayney
Mount Thorley Warkworth	Mount Thorley Operations Pty Limited and Warkworth Mining Ltd	Dec 2022	Singleton
New Berrima Quarry	The Austral Brick Company Pty Ltd	Dec 2022	New Berrima
Marrangaroo Quarry	Metromix Pty Ltd	Dec 2022	Lithgow
EL 5574 Bushranger Project	Prospectore Pty	Dec 2022	Oberon
Wallerawang Quarry	Walker Quarries Pty Ltd	Mar 2023	Lithgow
Castle Mountain Zeolites	Castle Mountain Enterprises Pty Ltd	Mar 2023	Quirindi
EL 6552 Fairholme Exploration Project	Kincora Copper Australia Pty Ltd and Rarex Ltd	Mar 2023	Condobolin
EL 8401 and EL 8542 The Valley Exploration Project	Rimfire Pacific Mining Limited	Mar 2023	Fifield
EL8968 Cargelligo Exploration Project	Australian Gold and Copper Ltd	Mar 2023	Lake Cargelligo

Audit learnings

Good practice:

- undertaking comprehensive rehabilitation risk assessments against the rehabilitation objectives and completion criteria
- undertaking a comprehensive and robust environmental risk assessment, including identification of risk controls, and monitoring of those controls to confirm effectiveness.

Areas for improvement:

- titleholders need to identify and actively manage their compliance obligations
- a better understanding of risks for community consultation and engagement – identifying risks against achieving the objectives for consultation
- better analysis and reporting of consultation outcomes
- development of consultation strategies that are based on an understanding of the community in which exploration is to be undertaken and not using the guidance material in the Exploration code of practice: Community consultation as a template
- maintaining mandatory records required by the exploration codes of practice
- development of more robust rehabilitation monitoring programs that document rehabilitation inspections, actions and tracks corrective actions where required, and provides a tool for assessing rehabilitation progress against the rehabilitation objectives and completion criteria for the site.

Mining Act compliance inspections – opal mining sector

Period: July 2022–June 2023

During the period a total of 189 assessments were undertaken upon expired mineral claims. 170 assessments relate to an inspection program undertaken in the Lightning Ridge/Grawin areas during the week of 30 May 2022 and 3 June 2022. A further 19 inspections of expired and 27 current claims occurred in White Cliffs Mineral Claims District during September 2022.

Plans for further inspections of the Lightning Ridge/Grawin areas in October and November were postponed due to rain events.

In May 2023 Mining, Exploration and Geoscience (MEG) announced the implementation of a comprehensive validation program for small-scale mineral (opal) claims in Lightning Ridge and White Cliffs. The review identified a range of issues arising from legislative reform of the *Mining Act 1992* that commenced in 2015. Inspections were postponed during this review.

During 2022–23, the compliance activities undertaken by the Resources Regulator under the *Mining Act 1992* and *Work Health & Safety (Mines and Petroleum Sites) Act 2013* came together into one team headed up by a new Principal Manager Opal Mining.

The new team is dedicated to responding to both mine safety and mine rehabilitation matters. The creation of one team for the opal mining sector will improve operational efficiency within the Regulator, create a one stop shop for industry and increase collaboration and coordination of compliance activities in this sector.

A new Opal Compliance Team commenced work with the Regulator and future reporting will be undertaken by that team.

Review of quarries sector to ensure compliance with Mining Act authorisations

Period: July–December 2022

A number of quarries had been previously investigated for operating in New South Wales (NSW) without the required authorisations under the *Mining Act 1992*. Whilst many quarries will not require a mining authorisation, a review of the quarry sector was undertaken to determine compliance. The aim of the review was to:

- identify any quarries operating without an authorisation
- assess the quarry owner/operator's awareness of legislative requirements
- identify any pending applications that are mining without a current authorisation
- engage with the title holders to initiate regulator enforcement action to achieve compliance.

Analysis showed that there were more than 2,400 quarries extracting construction material in NSW and only 75 of those sites had current mining authorisations. Many of the sites did not require an authorisation as only sites extracting scheduled minerals need approval. 1,897 of those sites were either in the state of open or intermittent. Approximately 1,000 of those open or intermittent sites were operated by local councils, Forest Corp or National Parks and Wildlife Services were excluded from the analysis given the likelihood that the purpose of those sites were to source road base, a product not included as a scheduled mineral.

Forty-seven sites were also identified as having mining authorisation applications pending and analysis showed 21 of those sites had associated surface disturbance. Site inspections of these 21 sites was undertaken and no site was found to be operating without the required authorisation.

Inquiries were made with 906 sites to clarify whether mining of scheduled minerals was occurring.

The program identified no sites operating without a required mining authorisation. The majority were either sand and/or gravel borrow pits and no mining authorisations were required.

Mining Act prosecutions commenced in the period

There were no Mining Act prosecutions commenced during this period.

Mining Act prosecutions finalised in the period

Table 2. Mining Act prosecutions finalised in the period

Defendant	Details	Commencement date	Outcome
Macquarie Marble and Lime Pty Ltd	On 1 November 2021 the company failed to comply with 3 x directions issued under s.240 of the <i>Mining Act 1992</i> .	3 August 2022	Guilty plea – Convicted and fined \$54,000 with 50% of the fine payable to the Secretary of the Dept of Regional NSW and ordered to pay the Regulator's costs of \$10,000
Stokes, Christopher Wayne	On 1 November 2021, Christopher Wayne Stokes failed to comply with a notice issued under s.248B of the <i>Mining Act 1992</i> and as a director of Macquarie Marble and Lime Pty Ltd, committed executive liability offences x 2 by failing to comply with directions under s.240 of the <i>Mining Act 1992</i> .	3 August 2022	Guilty plea – Convicted and fined \$30,000 with 50% of the fine payable to the Secretary of the Dept of Regional NSW and ordered to pay the Regulator's costs of \$10,000

Penalty notices issued

Table 3. Penalty notices issued

Date	Entity	Authority	Amount	Allegation
11 October 2022	Conrad Resources Pty Ltd	EL5977 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
25 October 2022	Cadia Holdings Pty Ltd	ML 1405 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
25 October 2022	Cadia Holdings Pty Ltd	ML 1405 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
28 October 2022	Volcan Australia Corporation Pty Ltd	EL 7301 (1992)	\$2,500	Failure to pay rents and levies (Mining Act)
12 December 2022	CIM Duralie Pty Ltd	ML 1427 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
13 December 2022	Tritton Resources Pty Ltd	EL 4962 (1992)	\$2,500	Breach of condition of authorisation by undertaking exploration on land on which Native Title has not been extinguished without consent of the Minister (Mining Act)
21 February 2023	Aus Gold Mining Group Pty Ltd	ML 1332 (1992)	\$2,500	Breach of condition of authorisation by failing to comply with the mandatory audit condition (Mining Act)
21 February 2023	Aus Gold Mining Group Pty Ltd	ML 1332 (1992)	\$2,500	Breach of condition of authorisation by failing to comply with the mandatory audit condition (Mining Act)
23 February 2023	Grasmont Exploration Pty Ltd	EL 8432 (1992)	\$2,500	Failure to pay rents and levies (Mining Act)
21 May 2023	Conrad Resources Pty Ltd	EL 5977 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
21 May 2023	Conrad Resources Pty Ltd	EL 5977 (1992)	\$5,000	Failure to comply with notice, order or direction (Mining Act)
23 May 2023	Broula King Joint Venture Pty Ltd	ML 1617 (1992)	\$2,500 (subsequently court elected)	Breach of condition of authorisation by failing to comply (Sch 8A of Mining Regulations)
23 May 2023	Broula King Joint Venture Pty Ltd	ML 1617 (1992)	\$2,500 (subsequently court elected)	Breach of condition of authorisation by failing to comply (Sch 8A of Mining Regulations)
23 May 2023	Broula King Joint Venture Pty Ltd	ML 1617 (1992)	(subsequently court elected)	Breach of condition of authorisation by failing to comply (Sch 8A of Mining Regulations)

Mining Act statutory decisions

Table 4. Mining Act statutory decisions

Name(s) of parties	Decision	Reason	Date of decision
Elwyn Dunning, Anthony Furney and John Thompson (deceased)	Cancellation: M(C)L 309 and M(C)L 310	Contravention of section 378D and 292C of the <i>Mining Act 1992</i> . Failure to use the land subject of the authorisation in good faith.	5 August 2022
RZ Resources Ltd	Vary (amend) Mandatory Audit Condition – Exploration Licences 8308, 8309, 8310, 8311, 8312, 8385, 8560, 8648, 8769, 8865, 9219, 9221, 9222 and 9223 (Act 1992)	To provide further clarity about the audit requirements	28 November 2022

Enforceable undertakings accepted

Enforceable undertakings are written, legally binding agreements proposed by a company or person which are accepted by the Secretary, following an alleged contravention of the Act. The Secretary (or delegate) may accept an enforceable undertaking as an alternative to prosecution. Enforceable undertakings that are accepted are published.

An enforceable undertaking is a commitment by a company or person to implement initiatives designed to deliver tangible benefits for the industry and broader community. The initiatives are intended to resolve both the behaviour of concern that has led to the alleged contravention and rectify the consequences of the conduct.

In the 2022–23 reporting period the Regulator accepted three enforceable undertakings under the *Mining Act 1992*, as follows.

Marble Craft and Granite Supplies Pty Ltd (Total value \$72,387)

It is alleged that Marble Craft and Granite Supplies Pty Ltd committed offences under section 5, section 378D and section 248S of the *Mining Act 1992*. The undertaking will deliver several benefits to the community, assist in the proper management of the title, and payment of the Regulator's costs. For further details see Enforceable Undertaking.

RZ Resources Ltd (Total Value \$163,945)

Following a compliance audit in late 2020, the Regulator investigated alleged contraventions across 10 exploration licences held by RZ Resources Ltd. It is alleged that RZ Resources Ltd committed offences under section 378D, 248S and 240C of the *Mining Act 1992*. The undertaking will deliver benefits to the community and industry the implementation of improved systems and process to assist in the proper management of the authorisations, and the payment of the Regulator's costs. For further details see Enforceable Undertaking.

Rangott Mineral Exploration Pty Ltd (Total value \$87,500)

It is alleged that Rangott Mineral Exploration Pty Ltd failed to comply with the mandatory requirements of the Exploration Code of practice: Environmental Management in conducting exploration activities on Exploration Licence 9155 (Act 1992) on behalf of the licence holder, Catalina Resources Limited, thereby committing offences under section 378EA on the *Mining Act 1992* in aiding and abetting the commission of an offence under section 378D. The undertaking will deliver benefits to the community and industry benefits, and the payment of the Regulator's costs. For further details see Enforceable Undertaking.

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