

# RAVENSWORTH OPEN CUT

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GLENCORE

## **NSW Draft Work Health & Safety (Mines) Regulation 2014**



Submission by – Ravensworth Open Cut

The following response by Ravensworth Open Cut is in regards to the NSW Draft Work Health & Safety (Mines) Regulation 2014.

The response includes recommendations for transitional implementation periods and detailed feedback on specific clauses of the proposed legislation.

Should you require any clarification, please do not hesitate to contact Brendan Gazzard, Ravensworth Open Cut Health Safety and Compliance Manager, on;

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## 2 SAVINGS AND TRANSITIONS

The following table identifies the savings and transitions that Ravensworth Open Cut does not see as appropriate, along with suggested modifications:

Clause or Section	Requirement	Transitional Period	Issue	Recommended Period
Clause 3	Safety Management Systems	6 months	<p>Requires the review of the entire Safety Management System, all principal hazards and their controls, principal controls and emergency management systems.</p> <p>Consultation will be required on all these system reviews, in addition, training on any changes will need to be facilitated.</p> <p>This may involve plant, equipment and infrastructure modification or purchase (e.g. procedures for rehydration and communication in an irrespirable atmosphere)</p>	2 years
Clause 4	Contractor Health and Safety Management Plan	6 months	<p>This will require all contractors to review or develop their HSMP.</p> <p>They will need to consult with their workers and provide appropriate training.</p> <p>Operators will need to review all these plans.</p> <p>Operations may have as many as 100 HSMPs to review</p>	2 years
Clause 25	Principle Control Plans		<p>Matters to be addressed in regards to the development of Principle Control Plans are extensive which will require some time to review and then subsequently implement.</p>	2 years
Clause 30	Seismic Activity	6 months	<p>This is a new requirement that may involve extensive investigation and/or studies</p> <p>Systems will need to be developed</p> <p>Consultation will need to be conducted with workers</p> <p>Training will need to occur</p>	4 years

Clause or Section	Requirement	Transitional Period	Issue	Recommended Period
			New equipment may be required	
Clause 32	Post Incident Monitoring	2 years	This will require major infrastructure changes at underground mines and will involve significant expense	4 years

### 3 DETAILED FEEDBACK

Subdivision	Clause	Description	Oppose Yes/No	Comments / Issues	Recommendations
<b>Part 1 - Preliminary</b>					
	3	Definitions	Yes	The definition of intrinsically safe circuit includes " <i>and that has a valid certificate of conformity under clause 78</i> ", it is usually the case that individual parts of a circuit not the circuit have a certificate of conformity so this does not make sense.	<i>This part of the definition should be deleted as the remainder of the definition is adequate.</i>
	3	Definitions	Yes	The definition of hot work does not align with the definition in the Australian Standard	<i>Suggest alignment with the definition in the Australian Standard</i>
	8	Regulator may direct that one or more mine operators be appointed	Yes	This has the potential to negatively impact on an operation.	<i>Suggest the Regulator is required to give reasons to the mine holder, with right of reply prior to such the direction taking effect.</i>
<b>Part 2 - Managing Risks</b>					
<b>Division 1 - General requirements</b>					
Subdivision 1 - Control of risk	9	Management of risks to Health & Safety	Yes	This clause contains onerous requirements to record risk assessments and include them in the SMS, as it could be interpreted to include all Take 5's, JSA etc. The clause needs to be re-worded to limit these requirements to risk assessments that support the PMHMPs and PCPs	<i>Clause 9 (6) (a) suggest "a mine operator must keep records of risk assessments that support the PMHMPs and PCPs, these assessments will form part of the safety management system and the records of the mine." Clause 9 (6) (b) suggest "a contractor must keep records of risk assessments that support the PMHMPs and PCPs, these assessments will form part of the contractor health and safety management plan."</i>
Subdivision 2 - Safety Management Systems	14	Content	Yes	Clause 14(1)(g)(ii) the wording on this clause is not consistent with how contractors are managed – " <i>be integrated</i> " should be " <i>align</i> "	<i>Reword clause to "how the contractors health and safety management plan will align with the safety management system for the mine"</i>
	15	Performance Stds and audit	Yes	Clause 15 (a) This creates a requirement that is unachievable as creating specific measures for every aspect of an SMS would be impractical to sustain	<i>Needs to have the words "all aspects" removed.</i>

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	16	Changes	Yes	As the SMS has been significantly increased by this legislation, giving notice " <i>before any change</i> " is unrealistic.	This needs to be limited to <i>specific changes</i> (types or examples of change listed) or significant changes (significant would need to be defined) <i>or deleted</i>
<b>Division 2 - Principal mining hazard management plans</b>					
Subdivision 2 - Principal mining hazard management plans	23	Preparation	Yes	Clause 23 (3) (f) should be simplified	<i>"describe how control measures are to be implemented to manage hazards to health and safety associated with the PMH"</i>
	23	Preparation	Yes	Clause 23 (3) (i) would require mines to retrospectively obtain information about existing controls	the words " <i>each control measure</i> " should be replaced with " <i>new control measures</i> "
<b>Division 3 - Other plans</b>					
	26	Contractor H&S management plans	Yes	Clause 26 (5) (b) & (c) provision of written notice is an unnecessary administrative step that does not add value. It should be required that a "system" is in place for review and monitor.	Should be removed and replaced with a separate point - " <i>The mine operator must have a system for reviewing contractor health and safety management plans and monitoring compliance with those plans</i> "
	26	Contractor H&S management plans	Yes	Clause 26 should include a process that allows contractors to work directly under the mines SMS - particularly small businesses	Include an additional requirement that where the SMS of the operation includes activities conducted by the contractor, the contractor may work under the mines SMS.
<b>Division 4 - Specific Control measures - All mines</b>					
Subdivision 1 - Operational controls	27	Communication between outgoing and incoming shifts	Yes	Clause 27 the current clause does not allow for the implementation of new technology or current best practice. It is also unnecessarily prescriptive. A signature on a page is an administrative process that does not necessarily guarantee a report is <u>read</u> and <u>understood</u> .	This should be deleted and replaced with " <i>the mine operator of a mine at which more than 1 shift is working each day must implement a system to communicate information in relation to the state of the mine workings and plant and any other matters that relate to work health and safety from the outgoing shift to the incoming shift.</i> "
	29	Operation of belt conveyors	Yes	Clause 29 (d) is not practicable for surface belts and coal preparation plants	This should be deleted and replaced with " <i>must ensure that there is a system for regularly inspecting belt conveyors by competent</i>

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					<i>people, including but not limited to: (i) a schedule for conducting inspections that is relative to the risks associated with operating those belt conveyors. (ii) inspecting belts that have been shutdown due to the presence of any overheating, smouldering or other condition likely to cause a fire (iii) N/A"</i>
	30	Ground or strata failure	Yes	Clause 30(2) requires monitoring of all areas at or around the mine where controls are in place for the Principal Mining hazard of ground or strata failure, regardless of whether persons regularly work in those areas.	<b>Clarification required: is an inspection a form of monitoring?</b>
	31	Seismic activity	Yes	Seismic activity is a risk in relation to strata and ground stability, it should be included in not separated from those processes	<b>Clause 31 should be removed</b> from the body of the regulation and <b>relocated to item (1) ground and strata instability of Schedule 1</b> Principal mining hazard management plans - additional matters to be considered
	33	Electrical safety	Yes	Clause 33 (2)(e)(iv) providing training to every person on every piece of electrical plant is not practicable.	The word " <b>trained</b> " should be replaced with " <b>competent</b> "
	33	Electrical safety	Yes	Clause 33 (2)(g) could be interpreted as requiring SIL rating (IEC61508) on switchgear and protection devices. The majority of electrical switchgear and protection devices used in mines have not been assessed in accordance with IEC 61508, and would lead to mass non-compliance across the industry requiring mass exemptions.	Delete " <b>that suitable switchgear and protection devices (sufficiently reliable for the level of risk being controlled) are provided that automatically disconnect the power on the occurrence of any type of fault, at all points in the mine's electrical distribution system, and</b> " replace with " <b>that suitable switchgear and protection devices are provided that automatically disconnect the power on the occurrence of a fault the device was designed to detect, at all points in the mine's electrical distribution system, and</b> "
	33	Electrical safety	Yes	Clause 33 (2)(i) Mines use mains power portable electrical equipment that operate above 250V e.g.	<b>250 volts</b> " should be changed to " <b>450 volts</b> "



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				welders, belt splicers. "	
	33	Electrical safety	Yes	Clause 33 (2)(m) Electrical switchgear and protection devices used in mines have not been assessed in accordance with IEC 61508, and would lead to mass non-compliance across the industry requiring mass exemptions. There are other mechanisms available to determine that a control is sufficient e.g. compliance to Australian Standards, MDGs etc.	Delete " <i>that any electrical safeguards provided to control the risk from both electrical and non-electrical hazards have a safety integrity sufficient for the level of risk being controlled, and</i> " replace with " <i>that any electrical safeguards provided to control the risk from both electrical and non-electrical hazards are sufficient for the level of risk being controlled, and</i> " .
	33	Electrical safety	Yes	Clause 33 (2)(o) It is not practical to have earth leakage on ALL circuits. There is also guidance on this in 4871 and 2081 and this topic should be left in these standards. This clause is too prescriptive and will lead to mass non-compliance in the industry.	This clause should be replaced with " <i>that any electrical safeguards provided to control the risk from both electrical and non-electrical hazards are sufficient for the level of risk being controlled, and</i> "
	34	Notification of high risk activities	Yes	Clause 34 (6) the industry safety and health representative is notified under Clause 34 (3), (6) is unnecessary	Should be deleted
	37	Minimum age to work in mine	Yes	Clause 37 (1) (b) does not account for trainee miners that may be required to operate mobile equipment or trainees/apprentices as part of a task retrieving materials or tools from a location other than the immediate work area. This also assumes that competency is age related which it is not, any provisions should include a process that acknowledges competency.	Delete Clause 37 (1) (b) and Clause 37 (2)
Subdivision 3 - Fitness for work	44	Fatigue	Yes	Clause 44 currently written as an absolute duty	should include " <i>so far as is reasonably practicable</i> "
	45	Alcohol & drugs	Yes	Clause 45 currently written as an absolute duty	should include " <i>so far as is reasonably practicable</i> "
<b>Division 6 - Emergency Management</b>					
Subdivision1 - Emergency plans for all mines	87	Duty to prepare emergency plan	Yes	Clause 87 (2)(a)(vi) transport may not be available in all areas, and in some cases, the quickest and safest way to access a place of safety is to walk.	following the word evacuation add " <i>so far as is reasonably practicable</i> "



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	88	Consultation in preparation	Yes	Clause 88(2) as emergency service organisations are not necessarily familiar with mining specific issues, their recommendations may not always be practicable	Delete " <i>addresses</i> " and replace with " <i>considers</i> "
	93	Review	Yes	Clause 93(1)(a) requires that the plan is reviewed at least once per year. This places a arbitrary timeframe on the review of a process without an appropriate trigger. The face that the plan is tested annually, and the plan is to be reviewed after this test will serve the purpose, at an appropriate trigger, for review.	Delete this clause.
	94	Training of workers	Yes	Clause 94 (b) workers may not need to know all of the detail in the plan, this could in fact reduce the retention of what is important	Add at the beginning of this point " <i>receive relevant training or information .....</i> "
<b>Division 7 - Information, training and instruction</b>					
	102	Duty to inform workers about SMS	Yes		
	104	Duty to provide induction for workers	Yes	Clause 104 is too broad and not consistent with 102.	Add " <i>relevant to their work</i> "
<b>Part 3 - Health Monitoring</b>					
	108	Health monitoring of worker	Yes	Order 41 needs to be revoked as it is a duplicated requirement for coal mines.	
	111	Duty to pay costs	Yes	Clause 111(2) as contractors work for many mines and may work only occasional at a mine, it is not reasonable to assign this duty to the operator.	Delete and replace with " <i>if the mine operator has not engaged a worker at the mine, the PCBU that engaged that worker must pay expenses relating to health monitoring</i> "
	117	Duty to give health monitoring report to regulator	Yes	Clause 117 (a) – Only significant adverse health effects should be reportable and whether it is significant or not should be determined by the medical practitioner.	Change " <i>any adverse health effect</i> " to " <i>any significant adverse health effect</i> " and replace " <i>from exposure to a risk associated with mining operations</i> " to " <i>from an exposure associated with mining operations</i> "
	117	Duty to give health monitoring report to regulator	Yes	Clause 117 PCBUs can work a multiple mines and should be responsible for they own health monitoring records.	Reword to " <i>The mine operator of a mine or a PCBU must .....</i> "

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	118	Reports kept as records	Yes	Clause 117 (b) should only be in relation health effects from work exposures.	Add to the end of this point " <i>as a result of a health effect from an exposure associated with mining operations</i> "
<b>Part 4 - Consultation and workers' safety role</b>					
	119	Safety role for workers in relation to principal mining hazards	Yes	Part 4 the employment of a safety role is a business decision. If this means that each worker has a safety accountability then it should be a duty on the worker not the mine operator	Delete " <i>and worker's safety role</i> "
	119	Safety role for workers in relation to principal mining hazards	Yes	Clause 119 this should not be a specific role, it should be covered by consultation or set as a requirement in the section on PMHMPs	Delete and add the identification of principal mining hazards from (a) to clause 120, (b) & (c) are covered by clause 120 (b) & (c), add (d) to clause 120
	120	Operator to consult with workers	Yes	Clause 120 (e)	See recommendation from Clause 119 Clause 120 (f) delete as this is covered by (a)
<b>Part 5 - Mine survey plans and mine plans</b>					
	121	Survey plan of mine must be prepared	Yes	Clause 121 (4) some of the information in this clause may not always be known (e.g. boreholes).	Delete " <i>(if present at the mine)</i> " and replace with " <i>(if present and known at the mine)</i> "
	121	Survey plan of mine must be prepared	Yes	If a mine is not conducting extraction work at the mine - mining activities (construction work) there should not be a requirement to have the plan (construction work plan) certified by a mining surveyor.	Change to " <i>The mine operator of a mine must ensure that a detailed survey plan of the mine is prepared and certified by a mining surveyor at the mine (only required if extraction occurs at the mine).</i> " Include: " <i>Where no extraction work is being carried out at the mine, the mine operator of a mine must ensure that a detailed survey plan of the mine is prepared and certified by a registered surveyor.</i> "
<b>Part 6 - Provision of information to regulator</b>					
	127	Duty to notify regulator of certain incidents	Yes	Current practice allows verbal notification within 24 hrs and written notification within 7 days.	Clause 127 (2) add to the end of this point " <i>, unless verbal notification is made within 24hrs then the notification set out in (3) below must be made within 7 days</i> "
	127	Duty to notify regulator of certain incidents	Yes	Clause 127 (4) (a) linking this part of regulation to clause 177(a) has some unpractical outcomes e.g.	Delete this point and replace with " <i>a dangerous incident that did not result in an injury or an illness</i> " -

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				the incidents listed in 177(a)(xiii) – would require us to report every collision between anything that occurs onsite, and 177(a)(xv) – would require us to report every single plant or structure damage. The definition of a dangerous incident is sufficient to cover high potential incident as it includes "serious risk to a person's health and safety"	
	127	Duty to notify regulator of certain incidents	Yes	Clause 127 (4) (k) this clause will catch events that should not require notification e.g. if the phone system malfunctions, and you withdraw from a section in the mine (which is a control to prevent another risk from occurring), this should not need to be reported. All items that create an imminent risk to health and safety already need to be notified.	Delete this clause.
	127	Duty to notify regulator of certain incidents	Yes	Clause 127 (4) (m) and (n) not these subsidence reporting requirements are sustainable.	<p>Clause 127 (4) (m) and (n)</p> <p>(i) add to this point "<i>unplanned</i>"</p> <p>(ii) Rock falls, instability of cliffs, steep slopes or natural dams (<i>fine but more detail required on rock falls, also difficult to tell what is subsidence and what is natural</i>)</p> <p>(iii) Sinkholes (<i>fine but needs a definition of size that triggers reporting</i>)</p> <p>(iv) Surface cracking or deformations (this is unreasonable, we would have literally hundreds of occurrences each year. <i>Needs definition of size if to remain in legislation</i>)</p> <p>(v) Release of gas at the surface (this will also be onerous because there could be dozens of cases each year and it is impossible to monitor). <i>delete this point.</i></p>

Subdivision	Clause	Description	Oppose Yes/No	Comments / Issues	Recommendations
	128	Duty to notify regulator of other matters	Yes	Clause 128 (1)(b) this notification is too broad Clause 128 (6) the detail in (6) should not be required to be provided to the industry safety and health representative.	Clause 128 (1)(b) requires some clarification on interruptions Clause 128 (6) delete " <i>A notice given under this clause</i> " replace with " <i>A notice given under this clause to the regulator</i> "
	130	Duty to notify operator of notifiable incident	Yes	Incident notifications for incidents at a mine should be the responsibility of the mine operator.	Reword: " <i>A person who conducts a business or undertaking at a mine must ensure that the mine operator is notified as soon as is reasonably practicable of any notifiable incident that is required to be notified to the regulator under section 15 (2) of the WHS (Mines) Act. It is the responsibility of the mine operator to notify the regulator and the industry health and safety representative.</i> "
<b>Part 8 - Statutory functions</b>					
<b>Division 2 - Appointment to statutory positions</b>					
	134	Statutory positions and functions	Yes	Electrical and Mechanical Tradesmen should be deleted from the list of statutory positions as mines currently have appointment systems with greater detail than just a broad appointment to perform/supervisor electrical or mechanical work. Tradesmen currently receive appointments for each type of work that they are approved to perform e.g. high voltage switching or high pressure hydraulics. This is consistent with Schedule 2 – Part 3 – Clause (1) – electrical engineering control plan (d) the competency by workers to safely work on electrical plant or electrical installations at the mine. Competency of tradesmen also currently covered by Order 34	Minimum competency requirements could be detailed in Part 2 Division 7 information, training and instruction
	134	Statutory positions and functions	Yes	The statutory functions of Mining, Electrical and Mechanical engineering manager dictates a mines	Should be " <i>to establish and monitor the mining/electrical/mechanical engineering systems and</i>

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				management structure taking away the flexibility created by Part 2 Division 1 Subdivision 3 Clause 14	<i>standards for operations at the mine"</i>
<b>Part 9 - Licenced activities</b>					
	150	Activities to which part applies	Yes	Clause 150 (c)(i) tradesmen can currently replace components	Following the word repairing add " <i>(repairing does not include the replacement of components)</i> "
<b>Part 10 - Mine Safety Advisory Council</b>					
	158	Membership	Yes	Clause 158 (1) should not specify particular employer associations or unions, it should require an employer and an employee representative of the coal sector, metalliferous sector and quarries sector.	
<b>Part 11 - Mining Competency Board</b>					
	162	Membership	Yes	Clause 162 (1) & (2) should not specify particular employer associations or unions, it should require an employer and an employee representative of the coal sector, metalliferous sector and quarries sector.	
<b>Part 12 - Safety and Health Representatives</b>					
	166	Parts of coal mine excluded from application of Part 5 of Act	Yes	Mines personnel conducting construction work at mining operations or constructing new mining operations may not have the experience to meet the qualification in clause 167.	<i>Include in clause 166 (2) - "A coal mine that does not have any extraction occurring will be excluded from Part 5 of the WHS (Mines) Act. They shall comply with Division 3 of the WHS Act."</i>
<b>Part 13 - Miscellaneous</b>					
	177	Dangerous incidents	Yes	Clause 177 (f) We deliberately overturn plant weighing over 100kg as part of normal operations and maintenance.	<b>Delete the clause</b> and <b>move into Clause 177 (a)</b>
	177	Dangerous incidents	Yes	Clause 177 (f) "the overturning of vehicle or plant weighing more than 100 kilograms" - <b>100kg</b> nominated is too low and will encompass some activities which are normal operations at the mine - suggest this may be a typo.	The mass should be <b>1000kg</b>
<b>Schedule 3 - High risk activities</b>					
Part 1 - All mines		Emplacement areas	Yes	Schedule 3 Part 1 Clause 2 (2) emplacement areas	Delete <b>Schedule 3 Part 1 Clause 2 (2)</b>

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				are subject to an approval process that can take considerable time to receive, it is not reasonable to put a further waiting period following approval.	
		Electrical work on energised electrical equipment	Yes	Schedule 3 Part 1 Clause 3 Electrical Work on Energised Electrical Equipment is very broad by definition in the WHS regulations e.g. this includes testing. It is not practicable to wait 7 days to perform electrical testing.	Add " <i>(4) For the purposes of this clause electrical testing is not considered electrical work</i> ".
<b>Schedule 7 - Matters to be included in emergency plan for a mine</b>					
		Resources and equipment	Yes	Schedule 7 - 4 (4) it is generally not possible to provide communication to areas in which you have no electrical connection or electrical infrastructure.	<b>Delete this clause</b> – this is already covered in emergency management plan requirements.
<b>Schedule 10 - Statutory functions</b>					
Part 2 - Coal mines other than underground mines		List of other coal mine statutory positions	Yes	Schedule 10 - Part 2 - If a mine is not conducting extraction work at the mine - mining activities (construction work) there should not be a requirement to have a statutory position of a Mining Surveyor. It should be a Registered Surveyor.	Reword: " <i>Mining Surveyor (only required if extraction occurs at the mine)</i> "