

FINAL REGULATORY IMPACT STATEMENT:

Remake of the

Petroleum (Onshore) Regulation 2007

Mining Regulation 2010

Petroleum (Offshore) Regulation 2006

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1. Executive Summary

Under the staged repeal of statutory rules provisions of the *Subordinate Legislation Act 1989*, Regulations in NSW are subject to repeal every five years. Regulations may then lapse, or be remade with or without amendment.

The following Regulations are due for repeal on 1 September 2016:

- The *Petroleum (Onshore) Regulation 2007*;
- The *Mining Regulation 2010*; and
- The *Petroleum (Offshore) Regulation 2006*.

These Regulations are made under three separate Acts:

- The *Petroleum (Onshore) Act 1991* is the principal legislation relating to petroleum exploration and production in New South Wales. The Act creates petroleum exploration and production titles and regulates: environmental protection; geological performance, offences and enforcement; royalties and fees; and land access arrangements for exploration and production. In NSW at present, these activities are primarily concerned with gas resources.
- The *Mining Act 1992* is the principal legislation relating to mineral production in New South Wales. The Act creates minerals exploration and production titles and regulates: environmental protection; fees and royalties; offences and enforcement; and land access arrangements.
- The *Petroleum (Offshore) Act 1982* is the principal legislation relating to petroleum exploration and production in New South Wales “coastal waters”, in the area within three nautical miles offshore from the NSW coast. The Act regulates petroleum exploration and production activities. Administrative arrangements regarding exploration and production titles are regulated by complementary NSW and Commonwealth legislation, in accordance with objectives of the Offshore Constitutional Settlement. Under the NSW *Petroleum (Offshore) Act 1982* and the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, a Joint Authority, comprising relevant NSW and Commonwealth Ministers, administers offshore titles. There is currently no exploration or production activity authorised by the *Petroleum (Offshore) Act 1982*.

The Department of Industry proposes to make the following to replace the existing Regulations:

- The *Petroleum (Onshore) Regulation 2016*;
- The *Mining Regulation 2016*; and
- The *Petroleum (Offshore) Regulation 2016*.

In accordance with the Subordinate Legislation Act, the *Petroleum (Offshore) Regulation* must be remade or it will lapse on 1 September 2016. The Regulation will be remade without amendment to ensure the existing regulatory framework remains in place.

Given substantial changes to the *Petroleum (Onshore) Regulation* and *Mining Regulation* from the 2015 legislative reforms only commenced on 1 March 2016, the proposed changes to the Regulations are minimal. They focus on administrative matters and are not expected to have any significant impacts on stakeholders. As part of the revision of the Regulations, some clauses have been renumbered to improve clarity of the requirements. There is no change to the legal intent of the Regulations, aside from a small number of identified minor changes that seek only to clarify policy settings and to correct outdated provisions in the Regulations.

Public consultation on the draft Regulations was carried out in May-June 2016. Two submissions were received. This document contains the Government’s responses to the submissions.

1.1. Scope of this document

The *Subordinate Legislation Act 1989* generally requires a Regulatory Impact Statement (RIS) as part of the staged repeal process to assess the need for a Regulation or other government action, and to analyse the costs and benefits of these options.

However, the Act provides an exception for matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth and a RIS is not required for the proposed remake of the *Petroleum (Offshore) Regulation 2006*. The Regulation will remain unchanged.

Accordingly, this RIS provides an analysis of the proposed *Petroleum (Onshore) Regulation 2016* and *Mining Regulation 2016* as part of the staged repeal requirements. The RIS assesses three options for each of these proposed regulations:

- Option 1 – Remake the existing Regulation without amendments (the base case)/
- Option 2 – Allow the existing Regulation to lapse.
- Option 3 – Make the proposed 2016 Regulations.

The costs and benefits of each option have been assessed as part of this RIS. The proposed Regulations are considered the most effective means of achieving the objects of the Act and provide the greatest net benefit to stakeholders and the community. The proposed Regulations will improve clarity of requirements, while continuing to support the effective operation of the recent legislative reforms by enabling a range of administrative processes. It is therefore recommended that the proposed Regulations be made.

This RIS considers the staged repeal changes only. It does not address recent amendments to the *Petroleum (Onshore) Regulation 2007* and the *Mining Regulation 2010* that commenced on 1 March 2016. Those changes were made to support the Government's legislative package to implement the Government's Gas Plan and other commitments.

Similarly, reforms made as part of the Improved Management of Exploration Regulation (IMER) initiative are beyond the scope of this RIS. This initiative streamlined rules for exploration activities through legislative and policy reforms that extended more broadly than the scope of the current Regulations.

Also out of scope are changes to fees in the Regulations. In response to the Minerals Industry Action Plan, in 2015-16 the Government has committed to a separate review of fees and charges to find opportunities for streamlining and more flexibility to deliver the required regulatory services while improving on the competitiveness of NSW as an investment destination.

2. Introduction

2.1. RIS requirements under the *Subordinate Legislation Act 1989*

Under the *Subordinate Legislation Act 1989*, a RIS must be prepared before a statutory rule is made. This RIS provides an analysis of the proposed *Petroleum (Onshore) Regulation 2016* and *Mining Regulation 2016* in line with these requirements.

Before a Regulation can be made, the responsible agency must consider its social and economic impacts, and whether the Regulation is necessary. The purpose of this analysis is to ensure that the proposed Regulation provides a net benefit to the NSW community, and that any regulatory burden imposed is justified.

Under the *Subordinate Legislation Act 1989*, the RIS must include:

- A statement of the objectives sought to be achieved and the reasons for them.
- A review of these objectives to determine whether they are: reasonable and appropriate; accord with the objectives, principles, spirit and intent of the enabling Act; and are not inconsistent with the objectives of other Acts, statutory rules and stated government policies.
- Identification of alternative options by which the objectives can be achieved.
- An evaluation of the costs and benefits of the proposed regulation, including the costs and benefits relating to resource allocation, administration and compliance.
- An assessment of the costs and benefits of each alternative option to the making of the statutory rule (including the option of not proceeding with any action), including the costs and benefits relating to resource allocation, administration and compliance.
- An assessment as to which of the alternative options involves the greatest net benefit or the least net cost to the community.
- A statement of the consultation program to be undertaken.

Preparation of this RIS fulfils the requirements of the *Subordinate Legislation Act 1989* listed above and also addresses principles of better regulation articulated in the Better Regulation Office's *Guide to Better Regulation* (November 2009).

3. The *Petroleum (Onshore) Regulation*

3.1 Legislative and policy context

3.1.1. Significance of oil and gas in NSW

Currently, activities under the *Petroleum (Onshore) Act 1991* in NSW relate primarily to gas resources. The State has sedimentary basins displaying characteristics of large gas reserves but currently produces only a small amount of gas.

NSW is 95 per cent reliant on imports from other States to satisfy local demand for gas (Australian Energy Market Operator, March 2016). In terms of gas operations, there are 15 exploration licences and six production leases in NSW. The State's only gas production operation is located in Camden in south-west Sydney. The Camden project is scheduled to cease production in 2023.

At present, NSW has over 500 major manufacturers and industrial users of gas, and more than one million households who are reliant on gas. In recent years, the Government has put in place a number of measures to manage the gas industry while major legislative reforms were developed and implemented relating to gas exploration and development.

3.1.2. Legislative context

3.1.2.1. The *Petroleum (Onshore) Onshore Act 1992*

The *Petroleum (Onshore) Act 1991* creates petroleum exploration and production titles and regulates: environmental protection; fees and royalties; offences and enforcement; and land access arrangements. This Act regulates onshore petroleum activity in NSW by requiring titles to be obtained prior to the commencement of operations. Title applicants must demonstrate their technical and financial capacity to fulfil requirements of the title, including community consultation requirements.

Together with other statutory approvals, such as environment protection licences under the *Protection of the Environment Operations Act 1997*, water licences under the *Water Management Act 2000* and planning approvals under the *Environmental Planning and Assessment Act 1979*, the *Petroleum (Onshore) Act* regulates the impact of petroleum activities on the environment. It requires payment of royalties and fees and also regulates the rehabilitation of mine sites. These requirements are supported by a compliance and enforcement framework within the Act and Regulation.

3.1.2.2. The *Petroleum (Onshore) Regulation 2007*

The 2007 Regulation is made under section 138 of the *Petroleum (Onshore) Act*. The purpose of the 2007 Regulation was to give effect to the Act by enabling a range of administrative processes under the Act.

The existing regulation comprises 8 Parts.

Part 1 (Preliminary) includes definitions of terms used throughout the Regulation.

Part 2 (Petroleum titles) prescribes the administrative requirements relating to applications for petroleum titles and performance once a title is granted. This part is key to the Regulation's administration of the Act (with Parts 6 and 7 – fees and royalties).

Part 3 (Use of information and protected documents) prescribes legislation relating to provisions in the Act regarding auditing and enforcement proceedings.

Part 3A (Records and reports) prescribes the manner and timing for submission of annual, partial relinquishment and final reports submitted by the titleholder, as well as requirements for preservation of collected geological core and sample material.

Part 4 (Compensation) prescribes timing and provision of notice for matters of compensation that are being assessed in the Land and Environment Court.

Part 5 (Agents) provides that petroleum titleholders or applicants may appoint agents for the purposes of the Act and notification requirements for such appointments.

Part 6 (Fees) sets out the calculation of annual rental fees for area of title and clarification of timing and amount of administrative levy payable, as required by the Act.

Part 7 (Royalty) prescribes the annual rate of royalty payable for petroleum: 10 percent of the value at the well-head.

Part 8 (Miscellaneous) contains a number of administrative provisions including prescribing the minimum security deposit for a petroleum title; the requirement to notify the date of commencement of commercial production; and clarification of penalty notices.

3.1.2.3. Recent legislative reform

The Government's 2014 Gas Plan set out commitments under 17 actions to develop a safe and sustainable gas industry based on strong and certain regulation, and to secure production of gas within NSW to ensure the State's supply demands are met into the future.

The Gas Plan drew together the Government's response to a number of related reviews, including:

- the NSW Chief Scientist and Engineer's Independent Review of Coal Seam Gas Activities in NSW;
- recommendations made by the independently chaired Coal Exploration Steering Group to deliver on the Independent Commission Against Corruption (ICAC) recommendations; and
- Bret Walker SC's review into land access arbitration.

In 2015, the *Petroleum (Onshore) Act* was amended through a comprehensive legislation package to implement Gas Plan commitments. The reforms which commenced in stages from the end of 2015 to mid-2016 include:

- harmonising provisions with the *Mining Act 1992* to improve titles administration and enhance the suite of compliance and enforcement measures;
- increasing Government controls on future releases of exploration licences including competitive allocation, and requiring operators to demonstrate compliance with financial, technical, environmental and community consultation requirements;
- implementing a land access arbitration framework to improve the balance between landholders and titleholders in negotiating land access agreements; and

-
- establishing the Environment Protection Authority as the lead regulator for compliance and enforcement of petroleum conditions of title – with the exception of work, health and safety conditions.

Amendments were made to the 2007 Regulation to provide statutory support to the legislative changes. In particular, these:

- more closely harmonised title administration, compliance and enforcement, including penalties, for petroleum with the current regime for minerals;
- prescribed requirements for exploration licence applications that were previously held in guidelines for petroleum;
- streamlined reporting requirements to allow for greater transparency and consistency; and
- will establish a formal, transparent framework for landholders and titleholders to agree to land access arrangements, providing both parties with increased transparency about their rights and obligations.

These reforms also provided regulatory structure for the IMER framework. This framework commenced on 1 July 2015 and overhauled NSW exploration regulation by introducing stronger and streamlined rules across all types of exploration activities. A key objective of IMER was to reduce regulatory duplication – some 69 petroleum conditions were consolidated to 13 standard conditions for all resources.

The development of IMER and the Gas Plan package, including amendments to the *Petroleum (Onshore) Act*, and the *Mining Act* and their respective Regulations, sought and received feedback across a wide range of stakeholders. This enabled the Government to assess options across a range of social, environmental and economic measures. The package represented the best outcome for the community and industry.

This RIS does not reconsider specific elements of such reforms through the staged repeal process but assesses the proposed Regulation as a whole in the Options section that follows.

Also out of scope for the staged repeal process are changes to fees under the *Petroleum (Onshore) Regulation*. In response to the Minerals Industry Action Plan, in 2015-16 the Department of Industry is reviewing fees and charges to find opportunities for streamlining and more flexibility to deliver the required regulatory services while improving on the competitiveness of NSW as an investment destination.

3.2 The regulatory proposal: the *Petroleum (Onshore) Regulation 2016*

aSummary

Proposed regulation: *Petroleum (Onshore) Regulation 2016*

Principal Act: *Petroleum (Onshore) Act 1991*

Responsibility: Minister for Industry, Resources and Energy

3.2.1 The proposed regulation – need and objectives

Having examined provisions in the Regulation not affected by recent amendments, the Department of Industry proposes to remake the 2007 Regulation with some additional minor changes.

The objective of making the proposed Regulation is to ensure that the objects of the Act are able to be more effectively implemented due to greater clarity, while continuing to support the effective operation of the recent legislative reforms by enabling a range of administrative processes.

Several minor changes will update provisions to make them clearer, bring provisions into line with current practice or repeal provisions where they are no longer required. The proposed changes seek only to clarify policy settings and not significantly expand them.

In summary, the proposed changes will:

- Relocate a definition of “commercial production” moved from clause 3 to the clause where the term is used (clause 50) – this change does not otherwise change the legal definition in the Regulation.
- Update the mapping format requirement for petroleum title applications to reflect current electronic mapping practices (clause 4).
- Split existing clause 16H - Exemption from lodgement of reports into two new clauses (clause 27 - Extension of time to lodge reports and clause 28 - Exemption from obligation to prepare and lodge reports) to assist clarity of meaning without changing the existing requirements.
- Delete the savings and transitional clause 31(2) as a machinery change because it is outdated and references subclauses that no longer exist.
- Clarify the Department’s decision making process for renewal applications by requiring applicants to specify “known resources” for assessment leases in addition to potential resources, in line with current practice (clause 12(2)(b)(ii)).
- Correct a drafting oversight by inserting a requirement for an application for renewal of a petroleum title to be accompanied by a “rehabilitation cost estimate”, to harmonise the information requirements for renewal applications for coal, minerals and petroleum (clause 12(2)(c)). This change formalises an existing procedural requirement and corrects Regulation drafting oversight to harmonise prescribed requirements with other mineral resources.
- Insert for clarity in existing clause 22D - References to initial term, second and subsequent terms a subclause to reflect that a title may exist for more than two terms and to clarify that the payment of annual rental fees applies for all terms of a petroleum title. This change simply clarifies the existing arrangements by applying the same requirements for second and subsequent terms and imposes no additional costs on industry.
- Insert an explanatory subclause relating to rebates against royalty payable. This provision relating to the community benefits fund was recently introduced as part of the legislative package (clause 46). This change improves clarity only.

The proposed Regulation changes the numbering of clauses to ensure the Regulation is now sequential, with improved readability. This does not change the legal intent of these clauses. For example, Part 3A - Records and Reports in the current Regulation will become Part 4 - Records and Reports in the proposed Regulation and subsequent Part numbers in the proposed Regulation will follow this new sequence. Similarly, clause 11A - Applications for renewal of petroleum titles: section 19 (2AA) in the current Regulation will become clause 12 - Applications for renewal of petroleum titles: section 19(2AA) and (2AB).

There are also several minor changes that will update provisions to make them clearer, or are machinery in nature and bring provisions into line with current practice or repeal provisions where they are no longer required. The proposed changes seek only to clarify policy settings and not significantly expand them.

An outline of the proposed changes, and new clause sequencing and numbering proposed in the 2016 Regulation, is set out in Tables 1 and 2 of Appendix 1.

3.3 Consideration of options

3.3.1 Options

Three options were considered as alternatives in achieving the Government's objectives in making the proposed Regulation.

The options were:

- Option 1 – Remake the *Petroleum (Onshore) Regulation 2007* without amendments (the base case).
- Option 2 – Allow the *Petroleum (Onshore) Regulation 2007* to lapse.
- Option 3 – Make the proposed *Petroleum (Onshore) Regulation 2016* (the preferred option).

3.3.2 Methodology

The following section of the RIS outlines and assesses the social, environmental and economic costs and benefits (both direct and indirect) of the proposed Regulation. This includes an evaluation of the impacts on resource allocation, administration and compliance with statutory requirements. The assessment is based on a mix of qualitative and quantitative analysis.

The method used to analyse the options is based on the procedure set out in Schedules 1 and 2 of the *Subordinate Legislation Act 1989* (see Appendix 2) as well as:

- Better Regulation Office, *Guide to Better Regulation* (November 2009)
- NSW Treasury, *NSW Government Guidelines for Economic Appraisal* (July 2007)
- Better Regulation Office, *Measuring the Cost of Regulation* (June 2008).

A summary of the cost benefit analysis is provided at Appendix 3.

3.3.3 Costs and benefits of options

Option 1 – Remake the 2007 Regulation without amendment (the base case)

A “base case” is a fixed point of reference to which the alternative options are compared and generally represents a continuation of the status quo. In the staged repeal process, the continuation of the status quo can only be achieved by remaking the current Regulations without amendment. It is therefore appropriate for the “remaking the current Regulations without amendment” option to be considered as the base case.

The costs and benefits of the alternative options are assessed through their relative comparison with this base case. To allow a relative comparison with the other options, all the costs and benefits attributable to the base case have been given a value of \$0. This is not to say the base case does not provide a net benefit to industry, Government, the community and the environment, but rather that these values are “taken as a given” to provide a benchmark through which to compare the other options.

Option 2 – Repeal the 2007 Regulation

If no action is taken to remake the *Petroleum (Onshore) Regulation 2007* it will be automatically repealed on 1 September 2016.

Allowing the 2007 Regulation to lapse would mean that administration of the *Petroleum (Onshore) Act 1991* could not properly occur. The regulatory framework established under the Act is intimately related to, and dependent on, the Regulation. Without the Regulation the Government could not implement key elements of its Gas Plan package that were recently passed by NSW Parliament, as significant aspects are contained within the Regulation. Given the commitments made in the Gas Plan for strong and certain regulatory standards harmonised across all resource types, this option would not meet community expectations for a regulatory framework governing coal seam gas in NSW.

In the absence of the Regulation, self-regulation of petroleum exploration and production in NSW is not an appropriate alternative strategy. This is because the need to balance potential economic, social and environmental impacts can only be managed through regulatory requirements that place mandatory obligations on the petroleum industry within the framework of the Act.

Costs for Industry

If the Regulation is repealed, industry is likely to experience greater administrative uncertainty. The regulatory framework, established by the parent Act, is supported by the Regulation which clarifies administration and creates uniform and efficient processes. No Regulation could result in delays and uncertainty in applications and administrative inconsistency, which in turn would become a financial impost borne by individual applicants.

Alternative methods of compliance with legislative provisions of the Act without the Regulation are not possible given that the Regulation specifies requirements essential to the administration of petroleum titles in NSW under the Act, by the Department of Industry.

This includes information and data format requirements in mandatory annual reports, which are central to ensuring a titleholder’s performance and compliance under the Act, and therefore to the titleholder securing ongoing tenure. The cost to industry of losing tenure of an exploration project may be estimated at \$143 million per year (based on the example of lost investment cost to AGL for its unsuccessful Gloucester gas exploration project of approximately \$1 billion over seven years).

The impact of non-compliance with the Act would be compounded by reduced capacity for the Government to take enforcement action, due to a lack of penalty notice offence provisions if there is no Regulation. Accordingly, the Government may seek greater security deposit amounts from industry to cover the potential liability of environmental damage.

Longer term gas supply costs to general industry in NSW may result from loss of future industry investment in gas exploration and production due to loss of confidence in the Government's ability to administer the Act. At present, NSW has over 500 major manufacturers and industrial users of gas.

Costs for Government

Without a Regulation there would be:

- no method for calculating the royalty rate on petroleum or gas produced in the State, worth over \$518,000 in 2014/15; and
- no prescribed calculation of fees, including general administrative fees, title fees and annual rental fees. This would be a loss of around \$82,000 to the Government each year (assuming one new petroleum exploration licence application and one renewal application per year). The Government collected almost \$150,000 in annual rental fees alone from gas projects in 2014/15.

Costs for Community/Environment

If there were no Regulation, the Government would have reduced capacity to take enforcement action, due to a lack of penalty notice offence provisions. Accordingly, the Government may seek greater security deposit amounts from industry to cover the potential liability of environmental damage.

No prescribed penalty notice offences would weaken the enforcement provisions of the *Petroleum (Onshore) Act* and may prevent the Government from implementing Gas Plan commitments to the NSW community. There would also potentially be adverse environmental outcomes which may be costly for the Government and the community to redress.

No prescribed information and data format requirements for mandatory annual reports would result in delayed assessments of mandatory annual reports and may ultimately lead to forfeiture of titles and loss of industry confidence and investment in NSW.

These outcomes would lead to costs in terms of lost tenure. For example, the loss of Santos gas operations at Narrabri would cost the Government \$80 million per year for the life of the project in lost royalty, leading to loss of funding for services, as well as the loss of 240 jobs.

In terms of costs to the community, AGL reported it invested \$2.5 million in the local community in 2013/14 directly and indirectly (such as employment, suppliers and community initiatives) as part of its exploration project at Gloucester.

Benefits for Industry

The absence of a Regulation would benefit industry through no requirements to pay fees and royalties, and through no prescribed performance reporting standards.

Benefits for Government

No benefits have been identified.

Benefits for Community/Environment

No benefits have been identified.

Net Cost or Benefit

The cost benefit analysis summarised in Appendix 3 has concluded that the net cost of Option 1 is \$145.5 million per annum.

Option 3 – Make the proposed Regulation

This option will provide changes to update requirements in the Regulation to improve clarity, to bring provisions into line with current practice or to repeal provisions where they are no longer required.

Costs for Industry

The proposed Regulation does not impose any significant new costs or administrative burdens to industry.

Providing a prescribed requirement in the Regulation for a rehabilitation cost estimate at renewal theoretically imposes a discernible cost on industry. However, as titleholders are already undertaking this work such costs are considered negligible.

Similarly, requiring titleholders to include “known resources” in addition to potential resources when renewing an assessment lease will bring the Regulation into line with internationally accepted industry standards for description and reporting of resources and exploration potential. A similar change has been made for the draft *Mining Regulation 2016*. It applies to assessment leases. This change is expected to have no substantive economic impacts for industry.

Costs for Government

Similarly, the proposed Regulation does not impose any significant new costs associated with its administration.

Costs for Community/Environment

No significant costs associated with this option have been identified.

Benefits for Industry

Changes to machinery clauses update relevant aspects of the Regulation and provide greater clarity about mandatory requirements for industry. No values have been estimated for this benefit.

Other minor changes include the proposed inclusion of subclauses to clarify that the payment of annual rental fees applies for the initial, second and subsequent terms of a petroleum title, and the insertion an explanatory subclause relating to rebates against royalty payable will clarify existing provisions. These changes will benefit industry by improving clarity of the Regulation. No values have been estimated for this benefit.

Benefits for Government

Changes to machinery clauses update relevant aspects of the Regulation. This option will provide greater clarity in the administration of the *Petroleum (Onshore) Act* and Regulation.

Providing a prescribed requirement in the Regulation for a rehabilitation cost estimate will formalise an existing procedural requirement and harmonise requirements with the *Mining Regulation 2010*. No values have been estimated for this benefit.

The requirement on applicants to include “known resources” in addition to potential resources when renewing an assessment lease will bring greater clarity for the Department of Industry’s assessment of the prospectivity (the likely potential) of the tenure. It will therefore improve the effectiveness of the decision-making process for assessment lease renewals. No values have been estimated for this benefit.

Benefits for Community/Environment

The obligation to submit a rehabilitation cost estimate provides greater transparency and clarity regarding renewal application requirements and strengthens the existing approach to securities, namely, that sufficient security is held to secure the funding for the fulfilment of obligations under

the petroleum title. It also means that an application for renewal that does not contain such information cannot be processed. No values have been estimated for this benefit.

Net Cost or Benefit

No additional economic cost.

The cost benefit analysis has concluded that the net cost of Option 3 presents no additional economic cost. However, in qualitative terms, this option will assist industry and the Government by improving the clarity of some parts of the Regulation.

3.3.4 Preferred option

The preferred option is *Option 3 - Make the proposed regulation* based on the reasons set out in the previous section and in the cost benefit analysis summarised in Table 3 of Appendix 1.

4. The *Mining Regulation*

4.1 Legislative and policy context

4.1.1 Significance of mining in NSW

The mineral resources sector contributes significantly to the NSW economy and in generating regional employment, both directly and by bringing indirect business to local areas.

The combined value of NSW's mining production in 2014/15 was close to \$20.3 billion. Coal production alone was worth \$15.7 billion. Coal is NSW's largest export earner in value terms, worth around \$14.4 billion in 2014/15. The value of mineral and processed metal (including aluminium) exports is \$19.7 billion, which is around 50 per cent of the State's merchandise export revenue. The mining industry contributed nearly \$1.3 billion in royalties in 2014/15. The industry employed over 28,000 people directly as at June 2015, and around 110,000 people indirectly through the provision of both mine and non-mine related services.

4.1.2 Legislative context

4.1.2.1 The *Mining Act 1992*

The *Mining Act 1992* seeks to encourage and facilitate the discovery and development of mineral resources in NSW, balanced with the need to encourage ecologically sustainable development.

It does this by regulating exploration and production titles which are needed before mining operations can commence. The *Mining Act* requires certain environmental protections in relation to mining activities and establishes a framework for the payment of fees and royalties, offences and enforcement, and land access arrangements.

4.1.2.2 The *Mining Regulation 2010*

The *Mining Regulation 2010* is made under section 388, and within the parameters set by Schedule 4, of the *Mining Act*.

The purpose and objective of the *Mining Regulation* is to give effect to the *Mining Act* by enabling a range of administrative processes.

It comprises 11 Parts. Requirements under the *Mining Regulation* include:

Part 1 (Preliminary) contains a number of preliminary provisions including definitions that are used throughout the Regulation, prescribing minerals and terms such as environmental performance record to clarify its weight in consideration of a title application.

Part 2 (Prospecting and mining generally) is also a preliminary part including the scope of prospecting or mining activities for the purposes of the Act and includes clarification about what activities are permitted as lawful fossicking.

Part 3 (Authorities) together with **Part 4 (small scale titles)** prescribes the administrative requirements relating to applications for authorities and small scale titles (mineral claims and opal prospecting licences). These parts form a main focus of the Regulation's administration of the Act (with Part 7 and 7A – royalties and fees).

Part 5 (Reports) which prescribes the manner and timing for submission of annual, partial relinquishment and final reports submitted by the titleholder, as well as requirements regarding the confidentiality of reports and for preservation of collected geological core and sample material.

Part 6 (Use of information and protected documents) which prescribes legislation relating to provisions in the Act auditing and compliance activities.

Part 7 (Royalty) provides the rate of royalty payable for coal and other minerals, timing of royalty payments and other requirements for royalty returns, including keeping records of recovered minerals and resolving disputes.

Part 7A (Fees) sets out the calculation of annual rental fees for area of title and administrative clarification of administrative levy payable, as required by the *Mining Act*.

Part 8 (Mine Safety Advisory Council) prescribes membership and functions of the Mine Safety Advisory Council (legislative provisions for this Council were repealed from the *Mining Act*). The establishment and functions of the Mine Safety Advisory Council were introduced into the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* in 2013.

Part 9 (Boards of management) Similar to Part 8, this prescribes constitution and membership of boards of management.

Part 10 (Significant improvement claims) clarifies administrative requirements for referral of significant improvement claims under 23B(1) of Schedule 1 (repealed).

Part 11 (Miscellaneous) contains a number of miscellaneous provisions to support the Act, including such as: requirements for permits to enter land for specified purposes relating to mineral claims or opal prospecting licences; prescribed timing and manner for assessing compensation under the Act; prescribed minimum security deposit amounts; and provision for the Secretary of the Department of Industry to direct title holders to keep statistics relating to prospecting operations and mining operations, and to the treatment and disposal of minerals recovered.

4.1.2.3 Recent legislative reform

In 2015, the *Mining Act 1992*, like the *Petroleum (Onshore) Act 1991*, was amended by the NSW Government's comprehensive resources legislation package, which delivered on a number of Government commitments including:

- recommendations made by the independently chaired Coal Exploration Steering Group to deliver on ICAC recommendations;
- Bret Walker SC's review into land access arbitration; and
- the NSW Chief Scientist and Engineer's Independent Review of Coal Seam Gas Activities in NSW.

This reform package represented a significant overhaul of the regulatory framework for mining in NSW to restore greater controls over where and how coal, minerals and petroleum are explored and extracted as well as more transparency in the approach to land use. The reforms are commencing in stages from the end of 2015 to mid-2016.

Through these reforms the Government created greater consistency in the administration of titles across resource types, set minimum standards that must be met by industry, delivered greater control on the future release of coal prospecting, and improved the balance between landholders and titleholders in relation to land access arrangements.

The *Mining Regulation* was also amended to support implementation of these significant reforms. In particular these changes:

- more closely harmonised title administration, compliance and enforcement, including penalties, for all resource types;
- introduced a requirement that annual reports, containing geological data and other information, may be released by the Department after five years;
- prescribed requirements for exploration licence applications;
- streamlined reporting requirements to allow for greater transparency and consistency;
- introduced supporting provisions relating to strategic release of land for coal exploration; and
- established a formal, transparent framework for landholders and titleholders to agree to land access arrangements, providing both parties with increased transparency about their rights and obligations.

The recent *Mining Regulation* amendments also provided administrative support to implement the IMER framework. Commencing on 1 July 2015, this framework overhauled NSW regulation of exploration and assessment titles in NSW. The reforms reduce regulatory duplication of 54 coal conditions and 35 minerals conditions have been streamlined to 13 standard exploration conditions for all resources. Complementing legislative changes, the IMER reforms promote stronger accountability for industry, as well as the use of innovation and best practice to meet risk-based requirements. These reforms offer the community greater clarity and confidence in the regulation of the sector.

The development of IMER and the legislative reform package, including amendments to the *Mining Act 1992* and the Regulations, sought and received feedback across a wide range of stakeholders. This enabled the Government to assess of options across a range of social, environmental and economic measures. The package represented the best outcome for the community and industry.

This RIS does not reconsider specific elements of such reforms through the staged repeal process but assesses the proposed Regulation as a whole in the Options section that follows.

4.2 The regulatory proposal: the *Mining Regulation 2016*

Summary

Proposed regulation:	<i>Mining Regulation 2016</i> (the proposed Regulation)
Principal Act:	<i>Mining Act 1992</i> (the Act)
Responsibility:	Minister for Industry, Resources and Energy

4.2.1 The proposed regulation – need and objectives

Having examined provisions in the Regulation not affected by recent amendments, the Department of Industry proposes to remake the *Mining Regulation 2010* with some additional minor changes.

The objective of making the proposed Regulation is to ensure that the objects of the Act are able to be more effectively implemented due to greater clarity, while continuing to support the effective operation of the recent legislative reforms by enabling a range of administrative processes.

The proposed Regulation changes the numbering of clauses to ensure the Regulation is now sequential, with improved readability. This does not change the legal intent of these clauses. For example, Part 7A - Fees in the current Regulation will become Part 8 - Fees in the proposed Regulation and due to deletion of unnecessary provisions for the Mine Safety Advisory Council, Part 9 - Boards of Management in the current Regulation will correspond to Part 9 - Boards of Management in the proposed Regulation.

Other minor changes will update provisions to make them clearer, bring provisions into line with current practice or repeal provisions where they are no longer required. The proposed changes seek only to clarify policy settings and not significantly expand them.

In summary, the proposed minor changes to the 2010 Regulation will:

- update the mapping format requirement for mining title applications to reflect current practice and availability of published maps;
- update relevant provisions that apply to Group 9 (coal) to similarly apply to Group 9A minerals (oil shale) in accordance with recent amendments in the *Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015*, as part of the legislative reform package;
- formalise the Department’s existing decision-making process regarding renewal applications for assessment leases by requiring applicants to specify “known resources” in addition to potential resources;
- update the Regulation by referring only to the Maitland office as the prescribed office under the Act for keeping records of authorities and other relevant information;
- delete the unnecessary requirement introduced in recent legislative reforms for details on expenditure incurred in operations for the renewal justification statement when renewing a mining lease, as this data is not required;
- improve clarity by dividing the existing clause regarding exemption from lodgement of reports into two separate clauses dealing with timing of lodgement, and exemption from the obligation to lodge reports, respectively;
- clarify and provide consistency for fossicking requirements to link the offence regarding disturbance of soil, rock or other material to the actions of a “person”, in line with the existing obligation on a person regarding fossicking activities; and
- include the following changes correcting outdated references by deleting:
 - references to the repealed Commonwealth *Minerals Resource Rent Tax Act 2012* in clauses relating to royalties;
 - the transitional clause 65K and unnecessary provisions in Schedule 12 - Savings and Transitional as the specified time period has now expired; and
 - unnecessary provisions for the Mine Safety Advisory Council as these have been moved to the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

An outline of the proposed changes, and new clause sequencing and numbering proposed in the 2016 Regulation, is set out in Tables 1 and 2 of Appendix 2.

4.3 Consideration of options

4.3.1 Options

Three options were considered as alternatives to achieve the Government’s objective in making the proposed regulation.

The options are:

- Option 1 – Remake the *Mining Regulation 2010* without amendments (the base case).
- Option 2 – Allow the *Mining Regulation 2010* to lapse.
- Option 3 – Make the proposed *Mining Regulation 2016* (the preferred option).

4.3.2 Methodology

The *Subordinate Legislation Act 1989* requires an assessment of the costs and benefits of proposed changes to the regulation.

The following section of the RIS outlines and assesses the social, environmental and economic costs and benefits (both direct and indirect) of the proposed Regulation. This includes an evaluation of the impacts on resource allocation, administration and compliance with statutory requirements. The method used to analyse the options is based on the procedure set out in Schedules 1 and 2 of the *Subordinate Legislation Act 1989* (see Appendix 2) as well as:

- Better Regulation Office, *Guide to Better Regulation* (November 2009)
- NSW Treasury, *NSW Government Guidelines for Economic Appraisal* (July 2007)
- Better Regulation Office, *Measuring the Cost of Regulation* (June 2008)

A summary of the cost benefit analysis is provided at Appendix 3.

4.3.3 Costs and benefits of options

Option 1 – Remake the current 2010 Regulation without amendments (the base case)

A “base case” is a fixed point of reference to which the alternative options are compared and generally represents a continuation of the status quo. In the staged repeal process, the continuation of the status quo can only be achieved by remaking the current Regulations without amendment. It is therefore appropriate for the “remaking the current regulations without amendment” option to be considered as the base case.

The costs and benefits of the alternative options are assessed through their relative comparison with this base case. To allow a relative comparison with the other options, all the costs and benefits attributable to the base case have been given a value of \$0. This is not to say the base case does not provide a net benefit to industry, Government, the community and the environment, but rather that these values are “taken as a given” to provide a benchmark through which to compare the other options.

Option 2 – Allow the Regulation to lapse, leaving no regulation in place

If no action is taken to remake the *Mining Regulation 2010* it will be automatically repealed on 1 September 2016.

Allowing the 2010 Regulation to lapse means that a range of important regulatory mechanisms under the *Mining Act* could not operate effectively. As earlier identified, this would impact on aspects such as titles administration, the collection of royalties and fees, security deposits for rehabilitation and the process of reporting under the Act.

In the absence of the Regulation, self-regulation of mining in NSW is not an appropriate alternative strategy. This is because of the need for NSW communities to share in the economic and social benefits of mining, the size, scale and diversity of industry participants, the need to balance potential economic, social and environmental impacts, and the range of minerals and methods used for exploration and extraction.

Costs for Industry

If the Regulation is repealed, industry is likely to experience greater administrative uncertainty. The regulatory framework, established by the parent Act, is supported by the Regulation which clarifies administration and creates uniform and efficient processes. No Regulation could result in delays and uncertainty in applications and administrative inconsistency, which in turn would become a financial impost borne by individual applicants.

While providing a short term cost reduction for industry, the loss of the annual rental fee, for example, would mean a significant reduction in the New Frontiers Program budget. In 2011, it was estimated that a 1 per cent increase in government expenditure on pre-competitive geoscience results in 37 per cent increase in private exploration expenditure. In other words, \$1 million spent by New Frontiers in precompetitive geoscience results in a \$14 million increase in private exploration expenditure. If funding

ceased in 2011, the cumulative loss of private exploration expenditure in NSW by 2025 was estimated to be \$979 million.¹

Costs for Government

Without a Regulation there would be no means of calculating royalties on minerals owned by the Crown. This in turn would have an important impact on NSW Government revenue and the capacity to deliver vital services and supports. In 2014/15, royalties delivered \$1.273 billion in revenue to the Budget. In 2015/16 royalties are estimated to account for 2 per cent of total revenue in the NSW Budget, with coal royalties making up 95 per cent of total royalties.²

Similarly, there would be no prescribed fees for services. This would result in a loss of approximately \$14.8 million.

Costs for Community/Environment

Mining in NSW is a major contributor to the NSW economy. The industry is estimated to be worth around \$20.3 billion and created employment (direct and indirect) across the State of approximately 138,000 jobs in 2014/15. While the primary regulatory framework is provided by the *Mining Act*, titles administration relies on a range of definitions outlined in the Regulation. For example, without the definition of “minerals” provided by the Regulation, authorisations under the Act cannot be granted. This is fundamental to the industry and the consequent benefits that flow from operations.

Benefits for Industry

Repealing the Regulation would remove the requirement on industry to pay fees or royalties. Based on the royalty amounts collected in 2014/15 of \$1.273 billion, this would provide a substantial benefit to industry as a whole.

In addition, industry would enjoy the benefit of no prescribed fees for services, valued at \$14.8 million in 2014/15.

Benefits for Government

No benefits have been identified.

Benefits for Community/Environment

No benefits have been identified.

Net Cost or Benefit

The cost benefit analysis summarised in Appendix 3 has concluded that the net cost of Option 2 will lead to cumulative impact of \$979 million potential loss to industry by 2025.

Option 3 – Make the proposed Regulation

Remaking the 2010 Regulation without amendment would allow the objectives of the Act to be implemented. As currently made, the 2010 Regulation incorporates a range of important changes to support implementation of the Government’s legislative reforms. These are necessary to enable implementation of the reform program.

However, outside of these changes, in some areas the Regulation continues to retain old or outdated requirements which will inhibit the efficient operation of the *Mining Act*.

Costs for Industry

The proposed Regulation does not impose any significant new costs or administrative burdens to industry. The proposed changes are simply clarifications or are machinery in nature to update relevant aspects of the regulation.

¹ Acil Tasman (2011), *New Frontiers Program – Financial and Economic Assessment*.

² 2015/16 NSW Budget Statement, Budget Paper 1, p.B4-6

The new requirement for titleholders to include “known resources” in addition to potential resources when renewing an assessment lease will bring the Regulation into line with existing internationally accepted industry standards for description and reporting of resources and exploration potential. This change is expected to have no substantive economic impacts for industry and no economic cost has been estimated.

Costs for Government

Similarly, the proposed Regulation does not impose any significant new costs associated with its administration.

Costs for Community/Environment

No costs have been identified.

Benefits for Industry

This option will provide industry with the benefits of updated requirements in the Regulation to improve clarity, to bring provisions into line with current practice or to repeal provisions where they are no longer required. For example, removing references to maps that are no longer in production or available will benefit industry by reflecting modern technological mapping practices and clear requirements for titleholders with this capability, while also providing accessible alternatives.

No values have been estimated for this benefit.

Benefits for Government

Changes to machinery clauses update relevant aspects of the Regulation. This option will provide greater clarity in the administration of the *Mining Act* and Regulation.

The requirement on applicants to include “known resources” in addition to potential resources when renewing an assessment lease will bring greater clarity for the Department of Industry’s assessment of the likely resource potential of the tenure. It will therefore improve the effectiveness of the decision-making process for assessment lease renewals, and therefore the regulation of the sector.

No values have been estimated for this benefit.

Benefits for Community/Environment

This option will provide minor direct beneficial outcomes for the community and environment through greater clarity and associated efficiencies in the administration of the *Mining Act* and Regulation. No values have been estimated for this benefit.

Net Cost or Benefit

No additional economic cost.

The cost benefit analysis has concluded that the net cost of Option 3 presents no additional economic cost. However, in qualitative terms, this option will assist industry and the Government by improving the clarity of some parts of the Regulation.

4.3.4 Preferred option

The preferred option is *Option 3 – Make the Proposed Regulation* based on the reasons set out above and conclusions in the net cost benefit analysis table at Table 3 in Appendix 2 which identifies Option 3 as the option presenting the greatest net benefit.

5. Consultation

A public consultation period for the proposed *Petroleum (Onshore) Regulation 2016* and *Mining Regulation 2016* took place between 27 May 2016 and 29 June 2016. The Division of Resources and Energy in the Department of Industry also sought comments from the other NSW Government agencies.

Two submissions were received from stakeholders – the NSW Minerals Council and a submission that was requested to be confidential. Both addressed the proposed *Mining Regulation 2016*.

No submissions were received in relation to the proposed *Petroleum (Onshore) Regulation 2016*.

Submissions and Responses

1. Issues raised about the changes proposed in the RIS				
Stakeholder	Clause	Provision	Issue	Response
NSW Minerals Council	9	Standard Map	Suggested minor wording change to proposed updated clause to include map coordinates of boundary where “significant” changes only – as is current practice (e.g. for lake or national park exclusion, rather than map coordinates for all changes in direction of boundary).	Not supported. Stakeholders require certainty as to location of boundaries.
NSW Minerals Council	23	Renewal of Assessment Leases	Seek clarification that the definition of “known resources” aligns with the JORC Code. Form update required – requirement for a summary of “known resources” is not in current Renewal Justification Statement (RJS) form for prospecting titles.	Noted. The Renewal Justification Statement form will be updated.
2. Additional changes to the <i>Mining Regulation</i> proposed by stakeholders				
NSW Minerals Council	4	Definition of “Environmental Performance Record”	Inconsistency between the Regulation and the current DRE forms, particularly for the <i>Statement of Corporate, Compliance and Environmental Performance History</i> . Suggest amending clause 4(1)(a) to reflect Statement 3.1 and 3.2, amend clause 4(1)(b) to reflect Statement 2.1 and 2.3, and delete Statement 3.3, 2.2 and 2.4.	Noted. Relevant forms will be updated.
Confidential Submission	7	Mining Purposes	Reiterates issues raised previously on the need to clarify when a mining lease is required and clarify clause 7 on the meaning of mining purpose.	Noted. The Division of Resources and Energy is undertaking a separate process on options to streamline regulation of mining purposes while maintaining environmental protections.
NSW Minerals Council	12	Fossicking	Proposed wording of clause not material but seeking Government to better regulate fossicking activities, for example through a licensing regime.	Noted. This is a new policy proposal beyond the scope of the Staged Repeal process.
NSW Minerals Council	27	Surface activities permitted by sub-	Clarify list of activities, including environmental and similar surveys (e.g. Aboriginal cultural heritage	Not supported. Access tracks and roads would need to be covered by a land access

		surface leases	prescribed in the clause by adding at 27(a): "including but not limited to construction and use of access tracks and roads and carrying out related surveys or monitoring" after "prospecting operations".	arrangement.
Both Submissions	67	Extension of Time to Lodge Reports	Requests for extension of time to lodge reports should be shortened to 14 days. Secretary's advice to the applicant of a grant or refusal of an extension should be reduced to 7 days of receipt of the application. If no advice received from the Secretary to the applicant, there should be a deemed extension of 30 days. Clause should be amended to provide for exceptional circumstances given strong penalties for late submission.	Noted. The Department is required to report against Service Delivery Standards. These timeframes will continue to be monitored through these processes.
Confidential Submission	Schedule 10	Fees	Clarity needed on the application of fees by title area.	This is being addressed in a separate review of fees and charges as part of the Government's Response to the Minerals Industry Action Plan.
NSW Minerals Council		Outdated legislation references in tenure documents	Notes references to repealed legislation in recently granted exploration licences – address.	Noted. These will be reviewed through a separate process.

The submissions also raised issues about aspects of the Government's 2015 legislative reforms package covering operational allocations, confidentiality of reports, protected documents that are not admissible and land access provisions. These issues were outside the scope of the staged repeal process.

6. Evaluation and review

Under the *Subordinate Legislation Act 1989*, Regulations are subject to staged repeal every five years. As part of this staged repeal process, the proposed Regulations will be subject to the review provisions of that Act and the NSW Government's *Better Regulation Principles*.

APPENDIX 1: The *Petroleum (Onshore) Regulation*

Table 1: Comparative Table - Overview

Overview	
<i>Petroleum (Onshore) Regulation 2007</i>	Equivalent in proposed <i>Petroleum (Onshore) Regulation 2016</i>
Part 1 Preliminary	Part 1 Preliminary
Part 2 Petroleum titles	Part 2 Petroleum titles
Part 3 Use of information and protected documents	Part 3 Use of information and protected documents
Part 3A Records and reports	Part 4 Records and reports
Part 4 Compensation	Part 5 Compensation
Part 5 Agents	Part 6 Agents
Part 6 Fees <ul style="list-style-type: none"> • Division 1 General • Division 2 Annual rental fees • Division 3 Administrative levies 	Part 7 Fees <ul style="list-style-type: none"> • Division 1 General • Division 2 Annual rental fees • Division 3 Administrative levies
Part 7 Royalty	Part 8 Royalty <ul style="list-style-type: none"> • Division 1 Rates of royalty • Division 2 Refunds or rebates of royalty where contributions made to authorised fund providing community benefits
Part 8 Miscellaneous	Part 9 Miscellaneous
Schedule 1 Fees	Schedule 1 Fees
Schedule 2 Penalty notice offences	Schedule 2 Penalty notice offences

Table 2: 2007 Regulation and Proposed 2016 Regulation – Comparison by Clause

Note: clauses renumber after clause 11.

<i>Petroleum (Onshore) Regulation 2007</i>		<i>Petroleum (Onshore) Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
Part 1 – Preliminary		Part 1 – Preliminary		
1	Name of Regulation	1	Name of Regulation	Machinery: updated to refer to <i>Petroleum (Onshore) Regulation 2016</i> .
2	Commencement	2	Commencement	Updated for the 2016 Regulation to commence on 1 September 2016. 2016 Clause also states that the regulation needs to be published on the NSW legislation website. No significant change.
3	Definitions	3	Definitions	New inclusions: <ul style="list-style-type: none"> • Definition of “rehabilitation” • Definition of “rehabilitation cost estimate” (see clause 12). Both now harmonise with the <i>Mining Regulation</i> .
		50		Definition of “commercial production” moved to clause 50. Minor wording change to simplify the definition to make it easier to understand. Does not change requirement on industry.
Part 2 - Petroleum titles		Part 2 Petroleum titles		
4	Drawing of plans: sections 13, 19(2B)(b) and 22(2)	4	Drawing of maps and plans: section 13	<ul style="list-style-type: none"> • Imposes requirements relating to form and scale of maps. • Removes outdated map references no longer available. • Now more clearly links particular mapping types to specific titles admin under the Act. • Provides alternatives if an applicant cannot meet primary requirements. • The changes formalise titleholders’ current practice in complying with the intent of the provision. A small positive change for the industry

				through clarification of an outdated and confusing provision
5	Work programs for exploration licences or assessment leases: section 14	5	Work programs for exploration licences or assessment leases: section 14	Machinery - renumbered subclauses to accommodate former clause 1A. No other change.
6	Progressive agendas: section 14(1)(d)	6	Progressive agendas: section 14(1)(d)	No change
7	Details to be provided: section 14	7	Details to be provided: section 14	No change
8	Commencement of exploration activities	8	Commencement of exploration activities	No change
9	Work program to be adhered to: clause 6(1)(c) of Schedule 1B	9	Work program to be adhered to: clause 6(1)(c) of Schedule 1B	No change
10	Variation of work program	10	Variation of work programs	No change
11	Applications for low-impact prospecting titles: section 45D	11	Applications for low-impact prospecting titles: section 45D	Machinery – outdated transitional subclause deleted. Does not change requirement on industry.
11A	Applications for renewal of petroleum titles: section 19(2AA) and (2AB)	12	Applications for renewal of petroleum titles: section 19(2AA) and (2AB)	<ul style="list-style-type: none"> • New references to Maps and Plans clause 4. • New requirement in renewal justification statement in applications for renewal of assessment leases to identify “known resources” in addition to the existing summary of potential resources, to enable greater clarity in the Department’s decision making for renewal applications. This change will update requirements in line with industry accepted international standards for description and reporting of resources and exploration potential. • Harmonises with proposed change to <i>Mining Regulation</i> for renewal of assessment leases. • New requirement in renewal justification statement for a rehabilitation cost estimate, as is required in mineral title renewal applications. This change will formalise an existing procedural requirement and harmonise requirements with the <i>Mining Regulation</i>.
11B	Cancellation of petroleum title: section 22(2)	13	Cancellation of petroleum title: section 22(2)	<ul style="list-style-type: none"> • New references to standard map clause 4. No other new requirements

12	Records of titles: section 95	14	Records of titles: section 95	Minor change to modernise term: “means of computer equipment” to “electronically”. No other change
13	Prescribed particulars for transfers of titles: section 96	15	Prescribed particulars for transfers of titles: section 96	Rephrases existing clause on rehabilitation cost estimate as per proposed change in clause 12. No other change.
13A	Beneficial use of gas: section 28B	16	Beneficial use of gas: section 28B	No change
Part 3 - Use of information and protected documents		Part 3 – Use of information and protected documents		
14	Use of audit information: section 83H	17	Use of audit information: section 83H	No change
15	Protected voluntary audit documents not admissible in certain proceedings or otherwise protected: section 83K	18	Protected voluntary audit documents not admissible in certain proceedings or otherwise protected: section 83K	No change
16	Disclosure of protected documents: section 113M	19	Disclosure of protected documents: section 113M	No change
Part 3A – Records and Reports		Part 4 – Records and Reports		
16A	Keeping of geological plans, maps and records: section 97A	20	Keeping of geological plans, maps and records: section 97A	No change
16B	Annual reports: section 97C	21	Annual reports: section 97C	No change
16C	Reports on drilling and seismic activities: section 97C	22	Reports on drilling and seismic activities: section 97C	No change
16D	Partial relinquishment reports: section 97C	23	Partial relinquishment reports: section 97C	No change
16E	Final reports: section 97C	24	Final reports: section 97C	No change
16F	Requirements of reports	25	Requirements of reports	Machinery – consequential renumbering of references to other clauses, otherwise no change.
16G	Maps, plans and data in reports	26	Maps, plans and data in reports	Machinery – consequential renumbering of references

				to other clauses, otherwise no change.
16H	Exemption from lodgement of reports: section 97C (2) (b)	27	Exemption of time to lodge reports: 97C	Existing clause 16H split into two. This clause provides for the timing of lodgement.
		28	Exemption from obligation to prepare and lodge reports: section 97C (2) (b)	Existing clause 16H split into two. This clause provides for exemptions. Minor change for greater clarity; does not change requirement on industry.
16I	Collection of cores and samples: section 97G	29	Collection of cores and samples: section 97G	No change
Part 4 – Compensation		Part 5 – Compensation		
17	Time allowed for parties to agree: section 108	30	Time allowed for parties to agree: section 108	No change
18	Manner of assessing and determining compensation: section 110	31	Manner of assessing and determining compensation: section 110	No change
19	Manner of payment	32	Manner of payment	No change
Part 5 – Agents		Part 6 – Agents		
20	Agents: section 134	33	Agents: section 134	No change
20A	Notification of agents: section 97F	34	Notification of agents: section 97F	Machinery – consequential renumbering of references to other clauses, otherwise no change.
Part 6 – Fees		Part 6 – Fees		
<i>Division 1 – General</i>		<i>Division 1 – General</i>		
21	Fees	35	Fees	No change
22	(Repealed)			Repealed: clause deleted
<i>Division 2 – Annual Rental Fees</i>		<i>Division 2 – Annual Rental Fees</i>		
22A	Calculation of annual rental fee	36	Calculation of annual rental fee	No change

22B	Annual rental fee area	37	Annual rental fee area	No change
22C	Minimum annual rental fee	38	Minimum annual rental fee	No change
22D	References to initial term and second term (Schedule 1)	39	References to initial term and second term and subsequent terms (Schedule 1)	<ul style="list-style-type: none"> New subclauses (5) and (6) inserted as clarification to reflect the fact that there may be more than 2 terms and to clarify that the annual rental fee requirements apply to all. The additional subclause applies the same requirements for second and subsequent terms: no additional costs are imposed on industry.
22E	(Repealed)			Repealed: clause deleted
22F	Grant anniversary date occurring during period in which petroleum title is automatically extended	40	Grant anniversary date occurring during the period in which petroleum title is automatically extended	No change
22G	(Repealed)			Repealed: clause deleted
<i>Division 3 – Administrative levies</i>		<i>Division 3 – Administrative levies</i>		
22H	Grant anniversary date occurring during period in which petroleum title is automatically extended	41	Grant anniversary date occurring during period in which petroleum title is automatically extended	No change
22I	(Repealed)			Repealed: clause deleted
Part 7 – Royalty		Part 8 – Royalty		
No Divisions.		<i>Division 1 – Rates of royalty</i>		Divisions included to clearly present the Community Benefit Fund provisions (inserted as part of Gas Plan legislative package) that will commence on 1 July 2016.
23	Rate of royalty: section 85	42	Rate of royalty: section 85	No change
24	Rate of royalty: <i>Mining Act</i> section 286	43	Rate of royalty: <i>Mining Act</i> section 286	No change
24AA	Transitional provision			Machinery change: outdated clause deleted
To commence on 1 July 2016, see Schedule 2[15]		<i>Division 2 – Refunds or rebates of royalty where</i>		

<i>Petroleum (Onshore) Legislation Amendment (Harmonisation) Regulation 2016</i>		<i>contribution made to authorised fund providing for community benefits</i>		
24AB (1)	No clause heading	44	Definitions	No change
24AB 2-5	Declaration of authorised fund	45	Declaration of authorised funds	No change
24AB 6-9	Rebates against royalty payable	46	Rebates against royalty payable	Clause 46(2) now includes reference to <i>first full production</i> year, to link with the existing reference to this term in clause 46(3). Included to improve clarity only. Minor changes – consequential renumbered references to other clauses.
24AB 10-12	Refunds of royalty paid	47	Refunds of royalty paid	No change
24AB 13-14	Refunds (of royalty paid) and rebates (against royalty payable)	48	Refunds (of royalty paid) and rebates (against royalty payable),	No change
Part 8 – Miscellaneous		Part 9 – Miscellaneous		
24A	Minimum deposit - security deposit conditions	49	Minimum deposit - security deposit conditions	No change
25	Notification of commencement of commercial production	50	Notifications of commencement of commercial production	Now includes definition of <i>commercial production</i> moved from clause 3. Minor word change in definition that does not change the legal definition. Otherwise no change.
26-27A	(Repealed)			Clause deleted
28	Certificate of authority: section 104N	51	Certificates of authority: section 104N	Subclauses 1 and 2 swapped in order to improve clarity, otherwise no change.
29	Penalty notice offences and penalties: section 125N	52	Penalty notice offences and penalties: section 125N	No change
30	Reference to officers in petroleum	53	Reference to officers in petroleum titles:	No change

	titles: section 138B		section 138B	
31	Savings and transitional provisions	54	Repeal and savings and transitional provisions	Machinery: outdated subclause deleted, consequential renumbered reference to another clause. Otherwise no change. Removes outdated subclause clause for clarity and accuracy. Does not change requirement on industry.
Schedule 1 Fees		Schedule 1 Fees		No change
Schedule 2 Penalty notice offences		Schedule 2 Penalty notice offences		Penalty for an offence under s.258 of the <i>Mining Act 1992</i> changed to \$110 to match the existing penalty units in the Act.

Table 3 – Summary of Cost Benefit Analysis - Petroleum (Onshore) Regulation

Option 1:	Industry		Government		Community/environment		Annual Net Impact
Base Case	Cost	Benefit	Cost	Benefit	Cost	Net Cost	0
Option 2	Industry		Government		Community/environment		Annual Net Impact
No Regulation	Cost	Benefit	Cost	Benefit	Cost	Benefit	
Royalty		<p>Loss of Royalty to the Crown No means to calculate Petroleum Royalty leading to reduction in services to the State¹</p> <p>\$518,282</p>	<p>Loss of Royalty to the Crown No means to calculate Petroleum Royalty leading to reduction in services to the State¹</p> <p>\$518,282</p>				
Compliance		<p>Loss of fees Without the regulation, there would be no prescribed rental fees for authorities²</p> <p>\$148,835</p> <p>Without the regulation, there would be no prescribed application fees payable⁴</p> <p>\$82,000</p>	<p>Loss of fees Without the regulation, there would be no prescribed rental fees for authorities²</p> <p>\$148,835</p> <p>Without the regulation, there would be no prescribed application fees payable⁴</p> <p>\$82,000</p>		Poor environmental outcomes resulting from no prescribed reporting		
Economic	<p>Impact on Gas Industry Confidence Annual cost of loss of one project during 5 year term of the Regulation resulting from poor regulatory framework if no</p>				<p>Loss of Regional Employment & Community Funding Annual cost of loss of one project resulting</p>		

	Regulation to support the Act: cost to industry ³ \$143 million				from poor regulatory framework. Eg AGL contributed \$2.5m to the local Gloucester community in 2013/14 directly and indirectly (employment, suppliers and community initiatives) ⁵ \$2.5m		
						Net Cost	\$145.5 million p/a
Option 3	Industry	Government		Community/environment		Annual Net Impact	
	\$0		\$0		\$0	Net Cost	No additional economic cost

¹ Based on the estimated petroleum royalty collected 2014/15.

² Based on the estimated annual rental fees for petroleum collected in 2014/15.

³ Cost to industry if loss of a project based on cost to AGL for its Gloucester gas exploration project, of approximately \$1 billion over seven years, or an average cost of \$143 million p/annum loss. Source: AGL ASX and Media Release Thursday, 4 February 2016.

⁴ One new petroleum exploration application per year and 1 renewal (assumption based on average of 2 titles due for renewal per year 2011 – 2015; prior to Gas Plan legislative reforms) Prescribed fees in the Regulation: \$50,000 application fee + \$15,000 title fee + \$2,000 renewal fee + \$15,000 renewal title fee = \$82,000.

⁵ AGL Gloucester Community Investment Factsheet: https://www.agl.com.au/-/media/AGL/About-AGL/Documents/How-We-Source-Energy/Gloucester-Document-Repository/Fact-Sheets/20150128_Fact-Sheet-GGP---Gloucester-community-investment.pdf.

APPENDIX 2: The *Mining Regulation*

Table 1: Comparative Table – Overview

Overview	
<i>Mining Regulation 2010</i>	<i>Proposed Mining Regulation 2016</i>
Part 1 Preliminary	Part 1 Preliminary
Part 2 Prospecting and fossicking generally	Part 2 Prospecting and mining generally
Part 3 Authorities	Part 3 Authorities
Part 4 Small-scale titles	Part 4 Small-scale titles
Part 5 Reports	Part 5 Reports
Part 6 Use of information and protected documents	Part 6 Use of information and protected documents
Part 7 Royalty	Part 7 Royalty
Part 7A Fees	Part 8 Fees
Part 8 Mine Safety Advisory Council	
Part 9 Boards of management	Part 9 Boards of Management
Part 10 Significant improvement claims	
Part 11 Miscellaneous	Part 10 Miscellaneous
Schedule 1 Minerals	Schedule 1 Minerals
Schedule 2 Groups of minerals	Schedule 2 Groups of minerals
Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited	Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited
Schedule 4 Land identification	Schedule 4 Land identification
Schedule 5 Other relevant legislation	Schedule 5 Other relevant legislation
Schedule 6 Rate of royalty	Schedule 6 Rate of royalty
Schedule 7 Membership and procedure of Mine Safety Advisory Council	Schedule 7 Membership and procedure of Boards of management
Schedule 8 Membership and procedure of Boards of management	Schedule 8 Form of permit to enter land
Schedule 9 Form	Schedule 9 Fees
Schedule 10 Fees	Schedule 10 Penalty notice offences
Schedule 11 Penalty notice offences	
Schedule 12 Savings and transitional provisions	Schedule 11 Savings and transitional provisions
Historical notes	

Table 2: 2010 Regulation and Proposed 2016 Regulation – Comparison by Clause

Note: clauses renumber after clause 11.

<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
Part 1 – Preliminary		Part 1 – Preliminary		
1	Name of Regulation	1	Name of Regulation	Machinery - Updated to refer to <i>Mining Regulation 2016</i> .
2	Commencement	2	Commencement	Machinery - Updated for the <i>Mining Regulation 2016</i> to commence on 1 September 2016. 2016 clause also states that the regulation needs to be published on the NSW legislation website.
3	Definitions	3	Definitions	Additional definitions: <ul style="list-style-type: none"> Appointed board member – moved from former clause 68. Minor change to words. Deleted: <ul style="list-style-type: none"> Definition of 'Council', being the Mine Safety Advisory Committee.
4	Meaning of “environmental performance record”	4	Meaning of “environmental performance record”	No change
5	Meaning of “mineral”	5	Meaning of “mineral”	No change
6	Meaning of “group of minerals”	6	Meaning of “group of minerals”	No change
7	Meaning of “mining purpose”	7	Meaning of “mining purpose”	No change
8	Meaning of “landholder”	8	Meaning of “landholder”	No change
9	Standard map	9	Standard map	<ul style="list-style-type: none"> Imposes requirements relating to form and scale of maps. Removes outdated map references no longer available.

				<ul style="list-style-type: none"> Now more clearly links particular mapping types to specific titles admin under the Act. Provides alternatives if an applicant cannot meet primary requirements. <p>The changes formalise titleholders' current practice in complying with the intent of the provision. A small positive change for the industry through clarification of an outdated provision.</p>
10	Graticulation of the Earth's surface		Graticulation of the Earth's surface	No change
Part 2 – Prospecting and mining generally		Part 2 – Prospecting and mining generally		
11	Exemption from unauthorised carrying out of mining purpose in section 6	11	Exemption from unauthorised carrying out of mining purpose in section 6	No change
12	Fossicking	12	Fossicking	<ul style="list-style-type: none"> Change to clause 12(1) to provide consistency within the clause to link the offence regarding disturbance of soil, rock or other material to the actions of a 'person', in line with the existing obligation on a person in clause 12(2) regarding fossicking activities. <p>No change to the requirements of the clause.</p>
13	Activities taken not to be prospecting or mining	13	Activities taken not to be prospecting or mining	Machinery – Updated with a new name (now Suez Recycling and Recovery P/L, formerly Sita Australia P/L).
Part 3 – Authorities		Part 3 - Authorities		
<i>Division 1 – Exploration licences</i>		<i>Division 1 – Exploration licences</i>		
14	Application for exploration licences	14	Application for exploration licences	No change
15	Notice of application for exploration licences	15	Notices of application for exploration licences	No change
16	Size and shape of land subject to exploration licences	16	Size and shape of land subject to exploration licences	Machinery change to reference to Group 9A minerals (oil shale).

17	Applications for low-impact exploration licence	17	Applications for low-impact exploration licences	No change
18	Renewal of exploration licence	18	Renewal of exploration licences	Machinery update to reference new Group 9A minerals.
19	Partial cancellation of exploration licence – manner of describing land	19	Partial cancellation of exploration licences – manner of describing land	Machinery update to reference new Group 9A minerals.
19A	Licences for operational allocation purposes	20	Licences for operational allocation purposes	No change
<i>Division 2 – Assessment leases</i>		<i>Division 2 – Assessment leases</i>		
20	Application for assessment lease	21	Applications for assessment leases	No change
21	Notice of application for assessment lease	22	Notices of application for assessment leases	No change
22	Renewal of assessment lease	23	Renewal of assessment leases	Amendment to include “known resources” to require an applicant to specify known resources in addition to potential resources to enable greater clarity in the Department’s decision making for renewal applications. This change formalises current practice.
23	Partial cancellation of assessment lease – manner of describing land	24	Partial cancellation of assessment leases – manner of describing land	No change
<i>Division 3 – Mining leases</i>		<i>Division 3 – Mining leases</i>		
24	Application for mining lease	25	Applications for mining leases	No change
25	Notice of application for mining lease	26	Notices of application for mining lease	No change
26	Surface activities in relation to subsurface leases	27	Surface activities in relation to subsurface leases	
27	Renewal of mining lease	28	Renewal of mining leases	Correction of drafting error in clause 27(1)(d)(i)(C) removes the requirement introduced in recent legislative reforms for applicants to demonstrate any

				expenditure incurred as part of the renewal justification statement in relation to a mining lease.
28	Partial cancellation of mining lease – manner of describing land	29	Partial cancellation of mining leases – manner of describing land	No change
29	Aggregation of labour and expenditure conditions	30	Aggregation of labour and expenditure conditions	No change
30	Preparation of proposed consolidated mining lease – manner of describing land	31	Preparation of proposed consolidated mining leases – manner of describing land	No change
<i>Division 4 – Variation and transfer of authorities</i>		<i>Division 4 – Variation and transfer of authorities</i>		
31	Review of determination of application for variation of prospecting operations under low-impact exploration licence	32	Review of determination of applications for variation of prospecting operations under low-impact exploration licences	No change
32	Transfer of authorities	33	Transfer of authorities	Machinery update to reference new Group 9A minerals.
<i>Division 5 – Authorities generally</i>		<i>Division 5 – Authorities generally</i>		
33	Exemption from or variation of requirements to describe land	34	Exemptions from or variations of requirements to describe land	Machinery – consequential renumbering of references to other clauses. No change to requirements.
33A	Work programs accompanying applications for exploration licences or assessment leases	35	Work programs accompanying applications for exploration licences or assessment leases	No change
34	Records concerning authorities	36	Records concerning authorities	Machinery - consequential renumbering of reference to another clause in the Regulation, updated reference to “prescribed office” in Maitland NSW, to reflect current Department operations. No change to requirements.
35	Register of colliery holdings	37	Register of colliery holdings	Minor change to modernise term: “means of computer equipment” to “electronically”. No change to requirements.

36	Registration of mining subleases	38	Registration of mining subleases	No change
37	Rights of way	39	Rights of way	No change
Part 4 –Small –scale titles		Part 4 –Small –scale titles		
<i>Division 1 – Mineral claims</i>		<i>Division 1 – Mineral claims</i>		
38	Marking out of proposed claim area	40	Marking out of proposed claim areas	No change
39	Notice of intention to apply for mineral claim	41	Notices of intention to apply for mineral claims	No change
40	Application for granting of mineral claim	42	Applications for granting of mineral claims	Machinery - consequential renumbering of reference to another clause in the Regulation. No change to requirements.
41	Determination of order of dealing with simultaneous applications for mineral claims	43	Determinations of order of dealing with simultaneous applications for mineral claims	No change
42	Applications for renewal of mineral claim	44	Applications for renewal of mineral claims	Machinery - consequential renumbering of reference to another clause in the Regulation. No change to requirements.
43	Application for transfer of mineral claim	45	Applications for transfer of mineral claims	Machinery - consequential renumbering of reference to another clause in the Regulation. No change to requirements.
44	Partial cancellation of mineral claim – manner of describing land	46	Partial cancellation of mineral claims – manner of describing land	No change
45	Rights of way	47	Rights of way	No change
46	Register of interest in mineral claims	48	Register of interest in mineral claims	No change
<i>Division 2 – Opal prospecting licences</i>		<i>Division 2 – Opal prospecting licences</i>		
47	Objections	49	Objections	No change
48	Applications for opal prospecting	50	Applications for opal prospecting	No change

	licences		licences	
49	Lodgement of applications for opal prospecting licences	51	Lodgement of applications for opal prospecting licences	Machinery - consequential renumbering of reference to another clause in the Regulation. No change to requirements.
50	Determination of order of dealing with simultaneous applications for opal prospecting licences	52	Determination of order of dealing with simultaneous applications for opal prospecting licences	No change
51	Register of opal prospecting licences	53	Register of opal prospecting licences	No change
52	Rights of way	54	Rights of way	No change
53	Register of interests in opal prospecting licences	55	Register of interests in opal prospecting licences	No change
<i>Division 3 – Access Management Plans</i>		<i>Division 3 – Access Management Plans</i>		
54	Miners' representative	56	Miners' representative	No change
55	Lodgement of access management plans	57	Lodgement of access management plans	No change
56	Applications for determination of access management plans	58	Applications for determination of access management plans	No change
Part 5 –Reports		Part 5 –Reports		
57	Annual reports	59	Annual reports	No change
58	Partial relinquishment reports	60	Partial relinquishment reports	No change
58A	Final reports	61	Final reports	No change
58B	Requirements of reports	62	Requirements of reports	Machinery – consequential renumbering of references to other clauses. No change to requirements.
58C	Maps, plans and data in reports	63	Maps, plans and data in reports	Machinery – consequential renumbering of references to other clauses. No change to requirements

58D	Confidentiality of reports	64	Confidentiality of reports	Machinery – consequential renumbering of references to other clauses. No change to requirements
58E	Collection of cores and samples	65	Collection of cores and samples	No change
59	Publication of reports	66	Publication of reports	Minor – reference to “subclause (1)” replaced with “this clause”.
60	Exemption from lodgement of reports	67	Extension of time to lodge reports	Existing clause 60 split in two. This clause provides for the timing of lodgement. Undertaken for greater clarity but no change to requirements.
		68	Exemption from obligation to prepare and lodge reports	Existing clause 60 split in two. This clause provides for exemptions. Undertaken for greater clarity but no change to requirements.
Part 6 –Use of information and protected documents		Part 6 –Use of information and protected documents		
61	Use of information	69	Use of information	No change
61AA	Protected documents not admissible in certain proceedings or otherwise protected	70	Protected documents not admissible in certain proceedings or otherwise protected	No change
61AB	Disclosure of protected documents	71	Disclosure of protected documents	No change
Part 7 – Royalty		Part 7 – Royalty		
		In this Part, All references to the Minerals Rent Resources Tax (MRRT) have been deleted because the Commonwealth Act has been repealed		
61A	Interpretation			Deleted
		72	Definition	No change to remaining definition: “holder of a mining lease”.
62	Rates of royalty for minerals other than coal	73	Rates of royalty for minerals other than coal	No change

63	Rates of royalty for coal	74	Rates of royalty for coal	Machinery – MRRT references deleted. No other change to requirements.
63A	Disputes	75	Disputes	No change
64	Returns	76	Returns	Machinery – MRRT references deleted. No other change to requirements.
65	Payment of royalty	77	Payments of royalty	Machinery – MRRT references deleted. No other change to requirements.
Part 7A – Fees		Part 8 – Fees		
<i>Division 1 – General</i>		<i>Division 1 - General</i>		
65A	Fees	78	Fees	
65B	Other fees	79	Other fees	No change
<i>Division 2 – Annual rental fees</i>		<i>Division 2 – Annual Rental fees</i>		
65C	Calculation of annual rental fee	80	Calculation of annual rental fees	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65D	Annual rental fee area	81	Annual rental fee areas	No change
65E	Minimum annual rental fee	82	Minimum annual rental fees	No change
65F	References to initial term (Schedule 10)	83	References to initial term (Schedule 9)	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65G	Phasing in of annual rental fees for authorisation granted before 1 July 2012	84	Phasing in of annual rental fees for authorisations granted before 1 July 2012	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65H	Grant anniversary date occurring during period in which authorisation is automatically extended	85	Grant anniversary date occurring during period in which authorisations are automatically extended	No change

65I	Transitional arrangements for determination of annual rental fee area for authorities in force			Machinery – clause deleted as it is no longer required.
<i>Division 3 – Administrative levies</i>		<i>Division 3 – Administrative levies</i>		
65J	Grant anniversary date occurring during period in which authorisation is automatically extended	86	Grant anniversary date occurring during period in which authorisations are automatically extended	No change
65K	Transitional assessment arrangements			Machinery – clause deleted as it is no longer required.
Part 8 – Mine Safety Advisory Council				
66	Membership of Council	Machinery change – Part and Schedule 7 of 2010 Regulation have been deleted as provisions for the Mine Safety Advisory Council have been moved to the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> and its Regulation. Does not change requirements on industry.		
67	Functions of Council			
Part 9 – Boards of management		Part 9 – Boards of management		
68	Boards to be constituted by Ministerial order	87	Boards to be constituted by Ministerial order	Definition of “appointed member” moved from this clause to clause 3. No change to requirements.
69	Nominations for membership of board	88	Nominations for membership of board	No change to requirements
70	Annual report to Minister	89	Annual reports to Minister	No change
Part 10 – Significant Improvement claims		Machinery – Part deleted. This provision was made under clause 23B (1) of Schedule 1 to the Act which has since been repealed.		
71	(Repealed)			
72	Referral of significant improvement claim			
Part 11 – Miscellaneous		Part 10 – Miscellaneous		
73	Permits to enter land	90	Permits to enter land	Machinery – consequential renumbering of reference to

				Schedule in Regulation. No change to requirements.
74	Compensation	91	Compensation	No change
74A	Compensation arising under small-scale titles	92	Compensation arising under small-scale titles	No change
75	Minimum deposit – security deposit conditions	93	Minimum deposit – security deposit conditions	No change
76	Applications	94	Applications	Machinery – repealed clause reference removed.
77	Notification of landholder of intention to invite tenders for mining lease – manner of describing land	95	Notification of landholder of intention to invite tenders for mining lease – manner of describing land	No change
78	Mining statistics and returns	96	Mining statistics and returns	Minor - reference to “subclause (1)” replaced with “this clause”.
78A	Notification of agents	97	Notification of agents	No change
79	Mine safety legislation	98	Mine safety legislation	No change
80	Penalty notice offences and penalties	99	Penalty notice offences and penalties	No change
81	Service of documents on the Crown	100	Service of documents on the Crown	No change
82	References to officers in authorisations	101	References to officers in authorisations	No change
83	Repeal of regulation	102	Repeal of regulation	Minor – repeals the <i>Mining Regulation 2010</i>
Schedule 1 - Minerals		Schedule 1 Minerals		Minor – columbium removed from Schedule 1 as it is the same as niobium.
Schedule 2 - Groups of minerals		Schedule 2 Groups of minerals		Minor – columbium removed from Schedule 2 Group 1 as it is the same as niobium.

<i>Schedule 3 – Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited</i>	<i>Schedule 3 – Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited</i>	No change
<i>Schedule 4 – Land identification</i>	<i>Schedule 4 – Land identification</i>	Additional definition included linking the Schedule with the Block Identification Index Map 2016 published by the Division of Resources and Energy.
<i>Schedule 5 – Other relevant legislation</i>	<i>Schedule 5 – Other relevant legislation</i>	Machinery – updated with new legislation commenced since the Mining Regulation 2010 was made.
<i>Schedule 6 – Rate of royalty</i>	<i>Schedule 6 – Rate of royalty</i>	No change
<i>Schedule 7 – Membership and procedure of Mine Safety Advisory Council</i>		Deleted
<i>Schedule 8 - Membership and procedure of boards of management</i>	<i>Schedule 7 - Membership and procedure of boards of management</i>	No change
<i>Schedule 9 – Form</i>	<i>Schedule 8 – Form</i>	No change
<i>Schedule 10 – Fees</i>	<i>Schedule 9 - Fees</i>	Machinery – consequential renumbering of reference to other clauses and inclusion of references to Group 9A minerals. No change to requirements.
<i>Schedule 11 – Penalty notice offences</i>	<i>Schedule 10 – Penalty notice offences</i>	No change.
<i>Schedule 12 – Savings and transitional provisions</i>	<i>Schedule 11 – Savings and transitional provisions</i>	Various parts of this Schedule are deleted as they are no longer required

Table 3 – Summary of Cost Benefit Analysis - Mining Regulation

Option 1:	Industry		Government		Community/environment		Annual Net Impact
Base Case	Cost	Benefit	Cost	Benefit	Cost	Net Cost	0
Option 2:	Industry		Government		Community/environment		Annual Net Impact
No Regulation	Cost	Benefit	Cost	Benefit	Cost	Benefit	
Royalty		Loss of Royalty to the Crown No means to calculate royalty leading to reduction in services to the State ¹ 1.273 billion	Loss of Royalty to the Crown No means to calculate Petroleum Royalty leading to reduction in services to the State ¹ 1.273 billion				
Compliance	Potential loss of funding for New Frontiers program: cumulative impact of \$979 million by 2025.	Loss of fees Without the regulation, there would be no prescribed fees for minerals titles ² \$14.8m	Loss of fees Without the regulation, there would be no prescribed fees for minerals titles ² \$14.8m				
Economic					Loss of Regional Employment The mining industry employed over 28,000 people directly, and around 110,000 people indirectly through the provision of both mine and non-mine related services as at June 2015.		
						Net Cost	\$979 million by 2025
Option 3:	Industry		Government		Community/environment		Annual Net Impact
	\$0		\$0		\$0	Net Cost	No added economic cost

¹ Based on the estimated combined coal and mineral royalty collected 2014/15

² Based on the estimated total fees annual revenue for minerals collected by Department of Industry

APPENDIX 1: Outline of Schedules 1 and 2 of the *Subordinate Legislation Act 1989*

Schedule 1 Guidelines for the preparation of statutory rules

(Section 4)

- 1 Wherever costs and benefits are referred to in these guidelines, economic and social costs and benefits are to be taken into account and given due consideration.
- 2 Before a statutory rule is proposed to be made:
 - (a) The objectives sought to be achieved and the reasons for them must be clearly formulated.
 - (b) Those objectives are to be checked to ensure that they:
 - (i) are reasonable and appropriate, and
 - (ii) accord with the objectives, principles, spirit and intent of the enabling Act, and
 - (iii) are not inconsistent with the objectives of other Acts, statutory rules and stated government policies.
 - (c) Alternative options for achieving those objectives (whether wholly or substantially), and the option of not proceeding with any action, must be considered.
 - (d) An evaluation must be made of the costs and benefits expected to arise from each such option as compared with the costs and benefits (direct and indirect, and tangible and intangible) expected to arise from proceeding with the statutory rule.
 - (e) If the statutory rule would impinge on or may affect the area of responsibility of another authority, consultation must take place with a view to ensuring in advance that (as far as is reasonably practicable in the circumstances):
 - (i) any differences are reconciled, and
 - (ii) there will be no overlapping of or duplication of or conflict with Acts, statutory rules or stated government policies administered by the other authority.
- 3 In determining whether and how the objectives should be achieved, the responsible Minister is to have regard to the following principles:
 - (a) Administrative decisions should be based on adequate information and consultation concerning the need for and consequences of the proposed action.
 - (b) Implementation by means of a statutory rule should not normally be undertaken unless the anticipated benefits to the community from the proposed statutory rule outweigh the anticipated costs to the community, bearing in mind the impact of the proposal on the economy and on consumers, members of the public, relevant interest groups, and any sector of industry and commerce, that may be affected.
 - (c) The alternative option that involves the greatest net benefit or the least net cost to the community should normally be chosen from the range of alternative options available to achieve the objectives.
- 4 A statutory rule must be expressed plainly and unambiguously, and consistently with the language of the enabling Act.

Schedule 2 Provisions applying to regulatory impact statements

(Section 5)

-
- 1 A regulatory impact statement must include the following matters:
 - (a) A statement of the objectives sought to be achieved and the reasons for them.
 - (b) An identification of the alternative options by which those objectives can be achieved (whether wholly or substantially).
 - (c) An assessment of the costs and benefits of the proposed statutory rule, including the costs and benefits relating to resource allocation, administration and compliance.
 - (d) An assessment of the costs and benefits of each alternative option to the making of the statutory rule (including the option of not proceeding with any action), including the costs and benefits relating to resource allocation, administration and compliance.
 - (e) An assessment as to which of the alternative options involves the greatest net benefit or the least net cost to the community.
 - (f) A statement of the consultation program to be undertaken.

 - 2
 - (1) Wherever costs and benefits are referred to in this Schedule, economic and social costs and benefits, both direct and indirect, are to be taken into account and given due consideration.
 - (2) Costs and benefits should be quantified, wherever possible. If this is not possible, the anticipated impacts of the proposed action and of each alternative should be stated and presented in a way that permits a comparison of the costs and benefits.

 - 3 A regulatory impact statement for a committee's foundation regulation (within the meaning of the *Agricultural Industry Services Act 1998*) must contain an assessment of the regulation carried out in accordance with the principles set out in Clauses 1 (3), 5 (1) and 5 (9) of the *Competition Principles Agreement*, being the agreement between the Commonwealth, the States and the Territories that was entered into, for and on behalf of New South Wales, on 11 April 1995.