

Portfolio Committee No. 2 – Health, Report No. 63  
Current and potential impacts of gold, silver, lead  
and zinc mining on human health, land, air and  
water quality in New South Wales

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## NSW Government response

March 2024



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# Introduction

The Government welcomes Portfolio Committee No. 2 – Health’s inquiry and report into the current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales. The Government acknowledges the findings of the inquiry and supports or supports in principle all the recommendations.

The Government considers it to be an important priority to have strong safeguards in place to protect human health and the environment for communities impacted by mining. This extends to the protection of Aboriginal cultural heritage and values. Community engagement and understanding community concerns is also central to balancing the opportunities of mining with appropriate regulatory oversight and protections. The Government is mindful and respectful of the rights and interests of communities as it considers the impacts of mining to the land, sky and water. This is particularly the case for regional communities and Aboriginal communities who are often more exposed to the impacts of mining.

The Government has a robust legislative framework in place to ensure appropriate oversight of mining operations in New South Wales and respond to acute incidents. Regulatory authorities have engaged with communities impacted by mining operations, convened expert advisory panels to review human health and environmental data, as well as having conducted extensive monitoring to investigate risks to the community. This work is continuing and is important to ensure that communities can have confidence that the Government values community safety and acts to protect it.

The Government will further its work in this area by introducing legislation changes to strengthen environmental protection laws and penalties, improving its engagement with communities impacted by mining activities, reviewing aspects of the regulatory framework and the resourcing of regulators, continuing its investigations into the human health and environment of residents around the Cadia mine, and develop a statewide education campaign on care and maintenance of rainwater tanks and the safe use of water.

The implementation of the Government response to the recommendations will enhance the protections currently in place and lead to improved human health and environmental outcomes for communities throughout New South Wales.

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# NSW Government response

## Recommendation 1

That the Environment Protection Authority reviews and continues to strengthen its culture of engagement and communication with communities throughout New South Wales, especially regional communities, and ensures that trust is rebuilt and a culture of accountability to the community is in place.

### Supported

The Environment Protection Authority is in the process of implementing changes to enhance its engagement and communication capabilities. The Government's one-stop pollution and environment incident reporting service, Environment Line, has now been put directly within the Environment Protection Authority structure and management. Regional communities can expect improved service and accountability in response to reports of pollution and environment incidents.

The Environment Protection Authority is developing a customer service action plan to improve customer service and further embed a culture of environmental stewardship in the organisation. It is also establishing a dedicated unit within its engagement team as a direct, familiar and regular contact point for key stakeholders, such as community groups. Other changes aim to generally improve systems, provide more opportunities to engage directly with stakeholders and increase the Environment Protection Authority's presence in the community.

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## Recommendation 2

That the Government consider increasing the maximum penalty for Tier 3 offences under the *Protection of the Environment Operations Act 1997*.

### Supported

The Government supports increasing the maximum penalty for Tier 3 offences under the *Protection of the Environment Operations Act 1997*. This is a consistent concern raised by the community. The Government will progress legislative reform that ensure that the penalties are commensurate with harm caused and culpability. It is important that the penalties are large enough to encourage compliance with the law, especially for large companies, as well as to enable regulatory authorities to take appropriate action when individuals or companies contravene environment protection laws.

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## Recommendation 3

That the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in New South Wales, using best available technology as determined by the Environment Protection Authority. This condition should be additional to any planning approval conditions.

### Support in principle

All parts of the community benefit from having access to up to date, reliable data. The Government will consider improving public access to data. The *Protection of the Environment Operations Act 1997* and supporting regulations have existing and effective tools to require publicly accessible air quality monitoring at mining operations in New South Wales.

In more recent years, the technology for real-time publicly accessible air quality monitoring has become more available and cost-effective. The Environment Protection Authority will increasingly move towards ensuring that best available technology is deployed using the tools available under the *Protection of the Environment Operations Act 1997*, including through conditions on environment protection licences.

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## Recommendation 4

That the Minister for Health use the results of the upcoming ‘deep dive’ on the hair and blood of willing residents currently being conducted with residents surrounding the Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.

### Supported in principle

In 2023, NSW Health formed an Expert Advisory Panel to advise on the risks to the Cadia community from heavy metal exposures. The Panel is made up of experts in toxicology, respiratory medicine, air quality, water quality, food, pathology, health risk assessment, neurology and from the Department of Primary Industries to ensure that there is a comprehensive range of expertise to advise on health risks to the Cadia community.

NSW Health’s Expert Advisory Panel will review the results of the ‘deep dive’ investigation and advise the Chief Health Officer on the need for any wider testing and related public health responses.

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## Recommendation 5

That the Government run a statewide education campaign on care and maintenance of rainwater tanks and safe use of water

### Supported

NSW Health, supported by the Environment Protection Authority, will develop a statewide education campaign on care and maintenance of rainwater tanks and safe use of water. While the Government already has publicly available comprehensive information on these matters, there is an opportunity to increase awareness of this information in the community particularly through an education campaign that includes communications through local councils and social media.

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## Recommendation 6

That the Minister for Climate Change instruct the Environment Protection Authority to institute a review of the clean air regulations made under the *Protection of the Environment Operations Act 1997*. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.

### Supported

The Environment Protection Authority will review the *Protection of the Environment Operations (Clean Air) Regulation 2022*. The Environment Protection Authority will provide advice to the Minister for Climate Change following its review.

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## Recommendation 7

That the Government amend the *Environmental Planning and Assessment Act 1979* and associated regulations as required to mandate that any environmental impact assessment for the proposed development of a mine include baseline data of heavy metals in water tanks, creeks, farm dams and groundwater surrounding the proposed mine.

### Supported in principle

Environmental impact assessment for a proposed development of a mine is prepared in line with the Planning Secretary's Environmental Assessment Requirements (SEARs). Baseline data collection and assessment is currently an integral part of targeted SEARs that are issued for minerals mining projects. These SEARs also refer to assessment guideline documents that include requirements for baseline data collection. To further strengthen these requirements, the Department of Planning, Housing and Infrastructure will work with agencies in the Department of Climate Change, Energy, the Environment and Water and NSW Health to establish standard SEARs for minerals mining projects that require baseline data of heavy metals.

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## Recommendation 8

That the Government consider expanding the role of industry safety and health representatives outlined in the *Workplace Health and Safety (Mines and Petroleum Sites) Act 2013* to metalliferous mine sites.

### Supported

Extending industry safety and health representatives to metalliferous and extractives mine sites was raised in a statutory review of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and Regulation conducted in 2020. In December 2021, a majority of members of the tripartite Mine Safety Advisory Council (MSAC) determined that, based on an assessment of the costs and benefits, there was insufficient justification to extend industry safety and health representative roles to non-coal mines. The MSAC will be asked for updated advice on this matter for the Government to consider.

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## Recommendation 9

That the Government review the resourcing of the NSW Resources Regulator with a view to ensuring that there are enough staff, including workplace inspectors, to service regional areas where mining operations are taking place.

### Supported

The Resources Regulator is a dedicated high-hazard regulator specifically for the mining sector, with specialist staff and additional compliance and enforcement powers available under legislation. The Resources Regulator regularly reviews its resourcing and activities and reports quarterly to the Mine Safety Advisory Council (MSAC) on its compliance and enforcement approach. The Resources Regulator regularly adjusts its resourcing and, as required, makes requests to the Government to increase resourcing to be funded by industry levies.

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## Recommendation 10

That the Environment Protection Authority should be funded to have additional environmental health experts as part of their team who are able to participate in community outreach and link up with the Environmental Protection Branch of NSW Health to ensure health and safety issues are addressed effectively and that community concerns are addressed earlier.

### Supported in principle

Further discussions will be held between Environment Protection Authority and NSW Health to consider the requirements for any additional environmental health experts, and where they are best located (in Environment Protection Authority or NSW Health) to ensure effective governance and efficiency. NSW Health will continue to be a source of health-specific advice for the Environment Protection Authority and explore ways to work collaboratively to better address community health and safety concerns.



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## Recommendation 11

That the NSW Resources Regulator continue to observe the Broula King Gold Mine site and collaborate with the Environment Protection Authority to work to rectify the issues experienced by Mr Craig Day and Ms Catherine Sullivan.

### **Supported**

The Resources Regulator has been actively undertaking monitoring, compliance, and enforcement action at the Broula King Gold Mine site. The Resources Regulator has been regularly liaising with the Environment Protection Authority on the oversight of the mine and these agencies will continue to collaborate on this matter. Mr Craig Day and Ms Catherine Sullivan are being updated on the regulatory action as it progresses.

