

SUBMISSION GUIDE

How to have your say on how **coal mines should be regulated in NSW**

Until 5pm on 2 October 2024, the New South Wales Environment Protection Authority (EPA) is seeking feedback on coal mine regulation across the state.

What is this consultation about?

The EPA uses licences to regulate coal mines in NSW.

Coal mine licences include binding rules about safety issues like noise, air, water, and environmental pollution. Licence conditions are an important way that governments ensure the health of the community and environment are protected.

The EPA is seeking feedback on these coal mine licences specifically:

- Monitor conditions
- Reporting conditions
- Community access to information, and
- Environmental protection conditions.

Why should I make a submission?

Right now, coal mine regulations in NSW fall short of the Paris Agreement goals, the NSW Government's pollution policies, and community expectations.

This consultation is a key opportunity to push for stronger coal mine regulations directly with the EPA, which oversees coal mining in NSW.

Addressing air and water pollution and climate change will lead to healthier communities and a better environment.

Tips for writing a good submission

The best submissions are unique. Good submissions generally:

- **Are concise** and well-structured
- **Emphasise the key points** so that they are clear
- **Outline concerns** as well as suggesting **recommendations** to address them
- Only include information and documents that are **directly relevant** to your key points.

What should I include in my submission?

STEP1: Introduce yourself

Begin your submission by briefly **introducing yourself** or the group or organisation you represent.

You can include basic information like your name and where you live.

STEP 2: Outline why coal mine regulation matters to you

Once you have introduced yourself, move on to sharing **why this issue is important** enough to you for you to spend time writing a submission to the NSW Environment Protection Authority. For example:

- Are you concerned about the health impacts of coal mining on your family and local environment?
- Is there something you feel particularly strongly should be addressed in the review?
- Have you experienced or witnessed the impacts of environmental harm?

STEP 3: Outline your concerns

Summarise your key concerns.

You can refer to the information we have included below to do this or do additional research and include your own information where you are interested.

We've outlined a number of key things you might want to address in your submission in more detail below. These include:

1. [Pollution limits on coal licences](#)
2. [The polluter pays regime](#)
3. [Publicly accessible information and monitoring](#)
4. [Greenhouse gas reporting](#)
5. [Methane abatement technology](#)
6. [Forward planning for climate change](#)
7. [Enforcement](#)

[Further information and evidence to support your submission](#)

Provide recommendations.

Summarise what you think needs to change to address your concerns. You can refer to the information below to help you with this, too.

- You can include as much, or as little, information as you would like.
- You can comment on all of the issue areas listed or just the ones you are most interested in.

Step 4: Upload and submit

There are two ways that you can lodge your submission:

1. **You can email a written submission** to the EPA at coal-mine-consultation@epa.nsw.gov.au. We encourage you to make a written submission with this method so that you can tailor it to suit your concerns.
- Alternatively, you can complete the ‘**have your say**’ survey on the EPA’s website here: <https://yoursay.epa.nsw.gov.au/state-wide-coal-mine-consultation>

How to lodge your submission

OPTION 1: Email your submission

Note: We encourage you to make a written submission with this method so that you can tailor it to suit your concerns.

Once you have written your submission, **save the document** onto your computer.

Next, attach a copy to an email, and **email it to:** coal-mine-consultation@epa.nsw.gov.au

OPTION 2: Use the online survey

If you submit via the online survey, follow the *steps* below to navigate the form.

Open the online survey website at:

<https://yoursay.epa.nsw.gov.au/state-wide-coal-mine-consultation>

- On the consultation page, scroll to the bottom and enter your details in the "**About You**" section. Click next.
- The survey will ask you to **answer four questions**. You can provide your comments by typing directly into the text boxes. You can choose to answer all the questions or as many as you like. Click next.
- The survey will ask you whether you want to give **feedback on specific coal mines**. You can answer by clicking the "yes" or "no" boxes on the page.
 - If you click "yes" the survey will ask you to choose a mine from a drop down menu. You can then provide specific comments in a text box which will appear below.
 - Click next.
- The survey will ask you to answer **three more questions**. You can provide your comments by typing directly into the text boxes. You can choose to answer all the questions or as many as you like.
- Indicate whether you would be comfortable with your feedback being **published** using the "yes" or "no" options at question 17. This is required, the survey will not let you continue until this is done.
- Click next.
- The survey will summarise your answers on a page. If you would like to make any changes, you can navigate back through the questions by scrolling down and clicking "previous".
- Once you have reviewed your answers and are happy with them, verify your humanity by pressing "I am not a robot", and then **click "submit"** at the bottom of the page.

Contact us

If you have any questions, need additional support or want to share your submission with us, get in touch at hello@envirojustice.org.au.

According to EJA lawyers – what are the key issues?

Environmental Justice Australia lawyers have carefully reviewed the EPA’s currently coal mine regulations.

Click on each link to read more EJA lawyer views on each of the areas open for comment:

1. [Pollution limits on coal licences](#)
2. [The polluter pays regime](#)
3. [Publicly accessible information and monitoring](#)
4. [Greenhouse gas reporting](#)
5. [Methane abatement technology](#)
6. [Forward planning for climate change](#)
7. [Enforcement](#)

[Further information and evidence to support your submission](#)

1 Pollution limits on coal licenses

Every community ought to have the right to a safe, clean, healthy and sustainable environment.¹

However, current coal mine licence limits are failing to keep pollutants like nitrogen oxides, sulfur dioxide, particulate matter (PM10 and PM2.5), and mercury within safe boundaries. Alarmingly, frequent violations of Australia's air and water quality guidelines have been documented in NSW,² and the NSW Audit Office has found that the EPA is failing to manage water pollution for human and environmental health.³

¹ Recommendation of the Special Rapporteur to the Government of Australia in his latest in country visit: (a) Guarantee the right to a clean, healthy and sustainable environment in the Constitution of Australia and the national and subnational legislative framework, allowing for its justiciability in domestic courts: United Nations General Assembly Human Rights Council, *Visit to Australia: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, Marcos Orellana, (18 July 2024) A/HRC/57/52/Add.2. Available here: <https://www.ohchr.org/en/documents/thematic-reports/a79163-gender-and-hazardous-substances-report-special-rapporteur>

² Belmer N, Wright I, The regulation and impact of eight Australian coal mine waste water discharges on downstream river water quality: a regional comparison of active versus closed mines. *Water and Environment Journal*, Vol 34(4). August 2020. 350-363.

Hendryx M, Islam MS, Dong GH, Paul G. Air Pollution Emissions 2008-2018 from Australian Coal Mining: Implications for Public and Occupational Health. *Int J Environ Res Public Health*. 2020 Feb 29;17(5):1570. The Australian and New Zealand fresh and marine water quality guidelines (ANZECC & ARMCANZ 2000a) and the Australian drinking water quality guidelines (NHMRC & NRMCC 2011) provide numerical water quality guidelines for drinking water, recreation and aesthetics and primary industries. The *National Environment Protection (Ambient Air Quality) Measure* sets out the safe air pollution guidelines.

³ The NSW Audit Office determined that the EPA's water pollution management was inadequate and posed risks of harm to human and environmental health. "[t]he EPA has not implemented appropriate internal controls or quality assurance processes to monitor the consistency or quality of licence conditions for discharges into water across the State." NSW Audit Office 'Regulation of water pollution in drinking water catchments and illegal disposal of solid waste' (28 June 2018). Available here: <https://www.audit.nsw.gov.au/our-work/reports/regulation-of-water-pollution-in-drinking-water-catchments-and-illegal-disposal-of-solid-waste>

EJA lawyers believe the EPA should:

- Adopt the **World Health Organisation’s air and water pollution benchmarks** when assessing licence limits; and
- Require coal mine operators to better manage contaminated environments with **Pollution Reduction Programs**.⁴

2 The ‘polluter pays’ regime

Coal mining operations are among the largest sources of pollution in NSW. However coal mine operators are not required to pay for the pollution that they produce.

Load-based licensing, or the 'polluter pays' system, requires industries to pay fees based on the amount of pollution that they release. This system has been successfully implemented in other sectors, like coal-fired power plants, to encourage corporate responsibility.

The EPA has recognised the importance of this scheme as a “fairer system that rewards cleaner industry,”⁵ but has not prioritised its roll out in NSW coal mine regulation.

EJA lawyers believe the EPA should require coal mines to pay load base fees for air and water pollutants including:

- **Air pollutants:** Coarse particulates (PM10), Fine particulates (PM2.5), nitrogen oxides, lead, mercury, arsenic, sulfur oxides, benzopyrene, carbon monoxide, carbon dioxide (CO₂) and methane
- **Water pollutants:** salt, nickel, zinc, arsenic, copper, lead, mercury, oil and grease, suspended solids, boron, cobalt and selenium.

⁴ *Protection of the Environment Operations Act 1997* (NSW) s 68.

⁵ NSW EPA, *Load-based Licensing: A fairer system that rewards cleaner industry* (April 2001)

3 Publicly accessible information and monitoring

It's essential for environmental monitoring and pollution data to be publicly available to empower community action, enhance transparency between operators and the public, and build community trust. Yet currently, operators are not required to disclose their monitoring results.

This is alarming because the National Anti-Corruption Commission has flagged the environmental sector as susceptible to corruption,⁶ and the NSW Audit Office has expressed concerns about the EPA's reliance on self-reported information from operators, which can lead to non-compliance.⁷

EJA lawyers believe the EPA should:

- Require operators to **publicly and in real-time share information** on community concerns, such as air pollution, water contamination, and incidents.
- **Expand the monitoring** of Camp Gully Creek in Illawarra to other water bodies receiving wastewater from coal mines.
- Mandate the **public disclosure** of all licence reporting.
- Conduct its own **audits and monitoring** of coal mines, given recent concerns about conflicts of interest, fraud, and lack of transparency in the consulting industry.

⁶ National Anti-Corruption Commission 'Strategic corruption priorities' (6 August 2024). Available here: <https://www.nacc.gov.au/news-and-media/strategic-corruption-priorities>

⁷ NSW Audit Office 'Regulation of water pollution in drinking water catchments and illegal disposal of solid waste' (28 June 2018). Available here: <https://www.audit.nsw.gov.au/our-work/reports/regulation-of-water-pollution-in-drinking-water-catchments-and-illegal-disposal-of-solid-waste>

4 Greenhouse gas reporting

Currently, coal mine operators in NSW are not required to report their greenhouse gas emissions. Accurately mapping and recording these emissions is the first step toward developing effective reduction strategies and is essential for tracking NSW's progress toward its emissions reduction targets.

EJA lawyers believe the EPA should require operators to:

- **Measure emissions** (including fugitive emissions) directly on-site and publicly disclose this information.
- **Conduct independent and systematic measurements** for all active and inactive mining areas.

5 Methane reduction technology

Methane is 82.5 times more powerful than CO₂ as a greenhouse gas over a 20-year period.⁸ Because it is so potent and acts quickly, reducing methane emissions is crucial for tackling the climate crisis. Coal mining is a major source of methane, contributing up to 12% of global emissions,⁹ with Australia being a significant contributor.¹⁰

⁸ Sabina Assan, Tackling Australia's Coal Mine Methane Problem (Ember Report, June 8, 2022), page 4.

⁹ United Nations Economic Commission for Europe, *Best Practice Guidance for Effective Management of Coal Mine Methane at National Level: Monitoring, Reporting, Verification and Mitigation* (ECE Energy Series No.71, 2021), page xiv.

¹⁰ Assan(n 6) page 7.

Alarming, the full extent of methane's impact is not well understood because leaks from coal mines are not being monitored.

EJA lawyers believe the EPA should require operators to:

- Implement **best practice technology** to minimise methane leaks.
- **Identify, monitor, disclose, and quickly address** methane leaks.

6 Forward planning for climate change

There are currently no licence conditions that regulate greenhouse gas emissions, despite the EPA citing its intention to do so.

EJA lawyers believe the EPA should establish climate change mitigation and adaptation plans that:

- **Set emission limits** (particularly on CO₂ and methane) and require operators to regularly report on these to ensure transparency.
- Require operators to:
 - Adopt measures for **reducing emissions** to meet NSW climate targets
 - Investigate and publish reports on how to **phase down emissions**
 - Identify technically feasible, **best-practice technologies** to reduce climate pollution
 - Provide **progress updates** on their investigations and detail actions taken to implement the identified measures.

7 Enforcement

Licence conditions only protect human health and the environment if the EPA monitors and enforces them. However, a 2018 audit found that the EPA doesn't have a consistent approach, meaning that it can't be sure it's enforcing the licence requirements evenly across the state or that mining companies are following their licence requirements.¹¹

- Where the EPA uncovers licence breaches, it must be required to undertake **timely and proportionate actions including prosecution**.

¹¹ NSW Audit Office 'Regulation of water pollution in drinking water catchments and illegal disposal of solid waste' (28 June 2018). Available here: <https://www.audit.nsw.gov.au/our-work/reports/regulation-of-water-pollution-in-drinking-water-catchments-and-illegal-disposal-of-solid-waste>

Further information and evidence to support your submission

The impact of coal mine pollution on people and the environment:

A study of eight Australian coal mines showed that coal waste increased nickel levels in nearby waterways by 25 times, zinc by over 9 times, and salinity by more than 6 times.¹² These pollutants are harmful to aquatic plants and animals, causing metals to build up in the food chain and reducing the variety of species in rivers.¹³

Research has shown that Australian communities located near coal mines are exposed to significantly higher air pollutants such as nitrogen oxides, metals such as mercury, arsenic and lead as well as PM10 and PM2.5 (coal dust) than non-coal mining communities.¹⁴

¹² Belmer N, Wright I, *The regulation and impact of eight Australian coal mine waste water discharges on downstream river water quality: a regional comparison of active versus closed mines*. Water and Environment Journal, Vol 34(4). August 2020. 350-363.

¹³ Fleming C, Morrison K, Robba L, Reynolds J, Wright I '14-month water quality investigation of coal mine discharge on two rivers in NSW, Australia: Implications for Environmental Regulation' Water Air Soil Pollution' (2021) 232: 90, 2 and 18. Available here: <https://researchdirect.westernsydney.edu.au/islandora/object/uws:59218/>

¹⁴ Hendryx M, Islam MS, Dong GH, Paul G. Air Pollution Emissions 2008-2018 from Australian Coal Mining: Implications for Public and Occupational Health. Int J Environ Res Public Health. 2020 Feb 29;17(5):1570.

There is clear evidence that no level of air pollution is safe.¹⁵ Exposure to fine particles can lead to serious health issues and increase the risk of death.¹⁶ Nitrogen dioxide is closely linked to childhood asthma and stunted lung development, which can result in lifelong health problems and early death.¹⁷ Even low levels of long-term exposure to sulfur dioxide have been associated with heart and lung-related deaths.¹⁸

United Nations support for strong Government action on toxic coal in Australia:

In August 2024, the United Nations Special Rapporteur handed down a human rights report on toxic coal pollution in Australia.¹⁹ He noted that:

- The pollution generated from coal mines poses **serious human rights threats** to communities, including communities in the Upper Hunter Valley who are consistently exposed to unsafe levels of pollutants.

¹⁵ World Health Organization. Regional Office for Europe. (2006). Air quality guidelines global update 2005: particulate matter, ozone, nitrogen dioxide and sulfur dioxide. Copenhagen: WHO Regional Office for Europe. Available at: <https://apps.who.int/iris/handle/10665/107823>.

¹⁶ Dockery, Douglas W., et al., (1993) An Association between Air Pollution and Mortality in Six U.S. Cities, *New England Journal of Medicine*, 329(24): 1753-1759. <https://www.nejm.org/doi/full/10.1056/NEJM199312093292401>

¹⁷ Knibbs, Cortés de Waterman, Toelle, Guo, Denison, Jalaludin, Williams. (2018). The Australian Child Health and Air Pollution Study (ACHAPS): A national population based cross-sectional study of long-term exposure to outdoor air pollution, asthma, and lung function. *Environment International*, 120, 394-403.

¹⁸ Wang, X., Hu, W., & Tong, S. (2009). Long-term exposure to gaseous air pollutants and cardio-respiratory mortality in Brisbane, Australia. *Geospatial Health*, 3(2), 257-263.

¹⁹ United Nations General Assembly Human Rights Council, *Visit to Australia: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana*, (18 July 2024) A/HRC/57/52/Add.2. Available here: <https://www.ohchr.org/en/documents/thematic-reports/a79163-gender-and-hazardous-substances-report-special-rapporteur>

- Australian and state **air quality standards** must be strengthened to align with the World Health Organisation’s air quality standards.
- Communities require **real-time monitoring of air pollution**. He stated that the current population threshold of 25,000 people is too high for the requirement to install monitoring stations under the Ambient Air Quality National Environment Measure and needs to be decreased especially for areas at high risk of air pollution.

Coal mines are one of the greatest contributors to pollution in NSW

Data from the National Pollutant Inventory (**NPI**) from 2008-2018 showed that coal mines accounted for 42.1% of national PM10 air emissions from NPI sites.

PM2.5 from coal mines accounted for 19.5% of the national total, metals for 12.1%, and nitrogen oxides for 10.1%.²⁰

²⁰ Hendryx M, Islam MS, Dong GH, Paul G. Air Pollution Emissions 2008-2018 from Australian Coal Mining: Implications for Public and Occupational Health. *Int J Environ Res Public Health*. 2020 Feb 29;17(5):1570.