



Mr Graeme Faulkner
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Dear Mr Faulkner

Changes to the mine subsidence compensation system in NSW

Thank you for meeting with Subsidence Advisory NSW (SA NSW) on 28 August 2017 to discuss the upcoming changes to the mine subsidence compensation system in NSW. As discussed, the changes take effect from January 2018 following the passage of the *Coal Mine Subsidence Compensation Bill 2017* (the Bill) in NSW Parliament.

The new legislation will ensure the owners of properties impacted by mine subsidence receive fairer, faster compensation. In addition, the reforms will see SA NSW partner with Council to bring a renewed focus on delivering a more effective regulatory framework for development in mine subsidence districts (districts).

SA NSW is streamlining development regulation within mine subsidence districts

A key component of the reforms is to streamline the approval process for low risk subsidence development applications in districts.

Under Section 24 of the *Coal Mine Subsidence Compensation Bill 2017*, the Chief Executive of SA NSW may exempt specified work from requiring SA NSW approval subject to conditions. From January 2018, SA NSW intends to make certain applications exempt from SA NSW approval.

To facilitate this change, SA NSW has initiated a review of its development guidelines (guidelines) to ensure they can be administered quickly and easily. The previous suite of 19 guidelines has been reduced to eight. An expert reference group with representatives from government, the development and mining industries along with academics specialising in structural, geotechnical or mining engineering was convened to provide input into the review. SA NSW is currently assigning one of the eight new guidelines to each property in a district based on subsidence risks.

SA NSW intends to make low risk development that complies with five of its new guidelines exempt under Section 24 of the new legislation. This means that Principal Certifying Authorities (PCAs), including Council, will be able to approve development applications that comply those five guidelines without a requirement for referral to SA NSW. Any applications for development that exceed SA NSW's guidelines or for properties assigned one of the three remaining guidelines will need to be referred to SA NSW for approval.

SA NSW may assign a different guideline to a property over time due to subdivision, mitigation work such as grouting or new information about subsidence risks. For example, a large property that is partially mined beneath may be subdivided resulting in the creation of new lots that are not impacted by underground mining. In this instance, SA NSW may apply a guideline with no restrictions to those new lots that are not mined beneath.

From January 2018, details of the SA NSW guideline assigned to a property will be publicly available at www.planningportal.nsw.gov.au and www.subsidenceadvisory.nsw.gov.au. SA NSW is also developing a new online portal where Council will be able to download a geographical information system (GIS) file with details of the guideline for each property in a district within your Local Government Area (LGA). The file will be updated weekly with any revised property guidelines. Council will be able to download the file as regularly as it deems necessary.

The portal will also facilitate a smoother, quicker referral process for those applications that will continue to require SA NSW approval. Council will be able to refer and track the status of applications online in real time through SA NSW's portal. Referral of applications will require minimal data input. SA NSW will set up an account for Council to use the portal once development is complete. To enable this, it would be appreciated if Council could please provide a corporate email address that can be used to set up the account.

I understand that this approach is a substantial change from the current development approval process in districts and would like to assure you that SA NSW will support Council during the transition. To ensure Councils are prepared for the change, SA NSW will be hosting training sessions for relevant Council employees in late November 2017. The sessions are expected to run for two hours. The sessions will cover the application of SA NSW's new guidelines and provide an introduction to the new online portal. My Executive Assistant, Kathryn Rodd, will make contact in the coming days to arrange a suitable time for your staff.

Section 15 Certificates will no longer be required under the new legislation

From January 2018, SA NSW will no longer issue Section 15 Certificates. Importantly, protections will be afforded to a property owner where, through no fault of their own, their home is damaged by subsidence and they were unaware that their home was built in contravention of the requirements in a district.

Coal mine operators will be financially accountable for subsidence damage they cause

The most significant change to the compensation framework is that underground coal mine operators will become directly accountable for subsidence damage they cause. SA NSW will continue to provide compensation for damage caused by subsidence from non-active mines (including historical mining activity or where liability cannot be attributed to a specific active mine).

Importantly, SA NSW will continue to manage all claims for compensation irrespective of whether the subsidence damage was caused by active or non-active mining. Where a claim relates to damage arising from an active mine, SA NSW will involve the mine operator at key stages.

Property owners will benefit from improved case management services. Property owners will lodge claims online through SA NSW's new online portal where they will be able to track and manage their claim throughout the process. A dedicated SA NSW Case Advisor will be assigned to each claim to provide property owners with a dedicated point of contact and support throughout their claim.

Claims in active mining areas will be assessed by an independent expert from a panel of assessors managed by SA NSW. Claims in non-active mining areas will continue to be assessed by an SA NSW Project Manager with expertise in mine subsidence damage. SA NSW may also engage an independent expert from the technical panel, such as a geotechnical engineer, to carry out additional assessments on more complex claims in non-active mining areas. Mine operators, and SA NSW, will be required to provide compensation in accordance with the claim assessment in strict time frames.

Further detail, including frequently asked questions, on the changes to the compensation framework is available at www.subsidenceadvisory.nsw.gov.au/reforms. In addition, SA NSW will be hosting community drop in sessions on the changes to the compensation system in late 2017. Session details will be published online shortly.

I note that SA NSW is also progressing the public sharing of information about areas of underground mining as discussed in our meeting. I will write separately to update you on this exciting initiative.

Please contact me on (02) 4908 4395 or at brendan.killen@finance.nsw.gov.au if you have any questions or would like to discuss.

Yours sincerely



Brendan Killen
A/Chief Executive Officer

25 October 2017