Mining, Exploration and Geoscience
Department of Regional NSW

December 2022

Consultation: Feedback and response summary

Draft Mining Amendment Regulation 2022 and Petroleum (Onshore) Amendment Regulation 2022

Introduction and background

The NSW Government is progressing a range of reforms to the Mining Regulation 2016 that will enable faster and more efficient decision-making, streamline and modernise processes, improve clarity and enhance compliance. In addition, the amendments will also take the opportunity to make the following amendments to the Mining Regulation 2016:

- the prescribing of hydrogen and other nonmetals (being helium, neon, argon, krypton, xenon, and radon) under the Mining Regulation to regulate exploration and mining for these minerals under the *Mining Act 1992*
- minor amendments to definitions under Schedule 8A to confirm the application of the rehabilitation conditions under the Schedule to ancillary mining activities carried out in conjunction with a mining lease
- further minor miscellaneous amendments to the Regulation that are intended to improve operational and administrative settings.

The Petroleum (Onshore) Amendment Regulation 2022 will amend the Petroleum (Onshore) Regulation 2016 to define the 'wellhead' of petroleum, which may be used in the calculation of petroleum royalties.

The amending Regulations support the *Mining and Petroleum Legislation Amendment Act 2022* passed by both houses of Parliament on 17 May 2022.

Consultation

Public online consultation on the Amendment Regulations opened on 21 September 2022 and closed on 19 October 2022. An explanatory guide was prepared which provides an overview of the Amendment Regulations and highlights the policy intent.

We received five submissions on the Amendment Regulations. All submissions came from industry – four from industry associations and one from a resources company.

Summary of feedback

A range of matters were raised by respondents in their submissions although most were relatively minor and related to administrative or clarity matters. Key issues raised were around the introduction of a new statement of corporate compliance, changing how renewal areas are to be determined, reducing application timeframes, increasing flexibility to make fit and proper determinations and improving the operation of ancillary mining activities provisions.

Statement of corporate compliance

The new requirement for a statement of corporate compliance was considered to be too onerous for smaller operators including holders of small-scale titles. The new requirement better aligns all

authorisation holders with the information required by the Resources Regulator. The detail provided in the statement is expected to be proportionate to the nature of the activity.

Genuinely required area when applying for renewal

Clarification was sought about the powers of the decision-maker in relation to renewal applications and the need to consider the project as a whole when determining if an area is genuinely required. The project status is already considered for Exploration Licence renewals under the Prospecting Minimum Standards and this will continue.

Application timeframes

A number of submissions raised issues around the timeframes for making applications and providing required information. The matters raised included the timeframe for rejecting incomplete applications, the period for lodging a renewal and applications for extensions when reporting. The provisions included in the regulation are consistent with the objects of the Act and balance the needs of authorisation holders with the expectations of government and the community that applications are expedited and considered appropriately.

Fit and proper declarations

Several submissions provided comment on the fit and proper person provisions. Comments considered that the provisions are too broad and that the considerations for decision-makers are not clearly set out. The provisions to be included are set out in the Act and new Regulation and align with other legislation across NSW and other Australian jurisdictions. The requirements to afford persons administrative fairness mean that decisions must be reasonable, have merit and be based on relevant considerations to be lawful. Appeals may be made against a fit and proper declaration to the Land and Environment Court.

Ancillary mining activities

The application of the ancillary mining activities (AMA) provisions was raised in a small number of submissions. There remains some confusion about how these are to be applied and defined. In particular, a new order will be required under Schedule 8A of the Act to impose a rehabilitation condition on an AMA where it is not on a Mining Lease (ML). This requires that the Secretary is satisfied that an AMA area which is outside the ML is within the 'Mining area' if it is in the vicinity and directly facilitates the mining.

Another issue is the definition of vicinity used in relation to AMAs with some submissions calling for a distance to be prescribed. The definition of vicinity will be considered further when preparing guidance and the transitional arrangements will make provision for the change from immediate vicinity to the broader vicinity concept.

Use of hand-held metal detecting equipment when fossicking

Industry raised concerns that the previous drafting of the amendments to clause 12 could produce the unintended consequence of exempting persons from the offences within that clause if they are using a hand-held metal detector while carrying out those prohibited actions. The regulations have been amended to clarify the extent to which the use of hand-held equipment does not offend the fossicking offences in clause 12.

Our response to feedback

We have prepared detailed responses to the feedback received on the amending Regulations to help our stakeholders understand how we are considering their voice.

Our response to feedback

Applications and renewals

Proposed amendment/topic	Stakeholder feedback	Response
Information requirements for applications, tenders, work programs *(new cl 14, 15A, 21, 25, 33, 35, 42 and 45; amended cl 18, 23, 28 and 50)*	Removal of environmental performance record references and new application requirements will be onerous on applicants and holders of small-scale titles.	References in the Mining Amendment Regulation to 'environmental performance record' are considered dated. The language 'statement of corporate compliance, environmental performance history and financial capability' better aligns with the information sought from applicants through the Resources Regulator's portal. Changes to the amount of detail required to support an application for a small-scale title are proportionate to the nature and intensity of the activity.
	How does clause 35(2) affect small-scale title applicants?	Clause 35(2) does not apply to small-scale titles since it only applies in relation to work programs for tenders and authorities. The definition of 'authority' and tender provisions in the *Mining Act 1992* does not capture small-scale titles.
	Applications for Assessment Leases (ALs) and Exploration Licences (ELs) over protected reserves should be accompanied by a note as reserves and these authorities may be stratified.	We will ensure information is available for applicants and authorisation holders to understand the effect a protected reserve has on an area.
	Clarifying notes would be beneficial to confirm what is meant spatially by "exploration area" (clause 14(1)(b)) and "assessment area" (clause 27(1)9b)), i.e., do these refer to the 2-dimensional footprint of the EL or to the 3- dimensional volume of the EL. This is of particular relevance to those with stratified tenements.	

	In relation to applications for ELs (proposed cl 14), the following amendments are proposed: ▪ Define 'approved form' or amend to 'in the form, and include the information, required by the Secretary' as set out in the current Regulation. ▪ Part (e) and (h) - clarify 'as set out on the approved form' to avoid confusion. ▪ Part (f) and (e) - remove repetition of financial information to remove duplication and avoid confusion. ▪ Part (e) and (g) – remove repetition of technical manager/advice requirements to remove duplication and avoid confusion.	These provisions consolidate current application requirements already in the *Mining Act 1992* and Mining Regulation 2016. The new reference to the 'statement of the corporate compliance, environmental performance history and financial capability of the applicant' is the full title of the Resources Regulator's standard compliance history form which applicants submit through the Regulator portal. This has a different purpose to other financial information an applicant sets out in their application form or for prospecting in accordance with the Mineral prospecting minimum standards.
	The repetition in cl 14(e) and (f) should be addressed. The former requires particulars of financial resources while (f) also discusses financial particulars such as corporate compliance and financial capability.	
	Further consultation is required on the new extended work program requirements including the reversion to the 'estimated amount of money that the applicant proposes to spend'. There is currently no guidance on how expenditure should be including a proposed minimum or maximum as well as how the estimated amount of money that an applicant proposes to spend will be used in the assessment of the work program as well as the impact (if any) on tenure application. Should this clause be retained, clear guidance should be provided on these matters through potential policy or guidelines to ensure transparency is achieved for all parties.	The requirement to estimate expenditure exists under clause 35 of the Mining Regulation 2016. The *Exploration Guideline: Work programs for prospecting titles* contains guidance on how expenditure is used in determining applications. There is no intention to prescribe minimum or maximum expenditure requirements as the costs of exploration are variable and our focus is ensuring the proposed work program meets Mineral prospecting minimum standards.

Rejection of incomplete applications *(cl 26A, 94AA and 94AB)*	Prescribed periods for providing evidence of development application or consent are too short and should each be 5 years or a longer period set by the decision-maker after considering exceptional circumstances. The three-year period between lodgement of an MLA and lodgement of a DA can incur several delays. The three-year period for lodgement of an MLA should include an option to extend or simply be changed to five years to ensure that there is adequate time to gain land access and prepare an appropriate EIS.	The prescribed periods are minimums only and the amendment to section 65 of the Mining Act permits the decision-maker to allow for a longer period. The decision-maker's discretion to reject a Mining Lease application because the applicant did not seek or obtain development consent must be exercised reasonably in accordance with administrative law principles. An ML applicant may apply to the Minister for a section 252 permit to allow access to land to undertake an assessment.
	Fees should be paid within 5 business days, not 1 before an application may be considered incomplete for non-payment	Industry concerns have highlighted that more consideration of the rejection timeframe for applications considered incomplete for non-payment is required. We have removed the rejection timeframe for applications that are not accompanied by fee and levy payments from the current Amendment Regulation. The timeframe for payment of fees will be included in a future amendment to the Mining Regulation 2016.
	The rejection power should include an exception for development applications that are the subject of an appeal.	This power will not be exercised if a mining lease applicant's development application is under appeal. This is because a development application refused by a consent authority may be reversed by appeal or legal challenge. New powers in section 65 of the Act will allow the decision-maker to set a longer timeframe before rejecting a mining lease application, which may be used in this type of situation.
	Ten business days for basic information will only encourage automated applications. Industry recommends further consultation on this matter to ensure that tenure in NSW is not simply provided to the quickest computer system user.	New rejection powers for decision-makers to reject incomplete applications have been included in the amending Regulations. We will consider other ways to promote only genuine applications.
Periods for lodgement of renewal of authorities	The prescribed period for lodgement of an application for renewal of a ML for a term of one year or less should be within the period of	The application period for renewal of MLs with a term of 1 year or less will be amended to 3 months to align with the EL renewal timeframe.

(cl 32B and 44A)	3 months before the tenement ceases to have effect, as has been proposed for ELs.	
	There should be an ability to lodge applications for renewal of an authority (of any type) a point in time earlier than the prescribed period if the holder can demonstrate to the satisfaction of the decision-maker of special circumstances that create the reasonable need for doing so.	Section 387C of the *Mining Act 1992* allows the decision-maker to waive timeframe requirements (procedural matters).
	The changes to the renewal application period for ELs and ALs should be for 6 months before they expire, not the proposed 3 months.	Increasing the timeframe to lodge a renewal application would reduce the information available to the decision-maker on the final year of the authorisation i.e., information for half of the period would not be available. This effect would be compounded for shorter duration authorisations.
Matters decision-maker may consider in determining whether land claimed is genuinely required under EL renewal applications *(for s 114A(3) of Act)* *(cl 32C)*	Remove 'Potential environmental impacts'.	We have removed the subclause referring to potential environmental impacts from the Amendment Regulation.
	The decision-maker should be able to consider whether the EL is part of a larger project as a consideration for renewal.	The decision-maker already considers project status for exploration licence renewals in accordance with the Mineral prospecting minimum standards. We have also integrated consideration of project status into the updated exploration licence renewals policy, which we will publish and begin applying at the commencement of section 114A(3). In addition, we will publish a stand-alone project status policy with the new exploration licence renewals policy.
Participation charge required for competitive selection application *(for Sch 1A, cl 3A of Act)* *(cl 94B)*	MEG should provide information as to how this proposed fee relates to the Department's costs in running a competitive process to ensure it aligns and truly represents costs recovery as stated.	The participation charges have been calculated to recover costs that may be incurred by government should a public tender be required. This includes estimated staff and advertising costs.
Enabling applications for extension of time to lodge	Annual reporting extensions should be able to be sought 15 days (not the current 30 days) before they are due.	The 30-day timeframe for annual reports is reduced to allow a request to be lodged not less than 15 days before the due date. This new timeframe will apply for annual, part relinquishment and final reports.

partial relinquishment or final report *(cl 67)*	The current period of 30 days has not allowed for external and unforeseen issues that can arise. Recommend a period of 15 days for all applications for extension of reporting as these issues can apply to any reporting forms. Clause 4 should be amended as this currently provides for Secretary advice on the outcome 21 days after the application that will now be too late for some extension requests.	The 21-day timeframe in the current clause 67(4) is the maximum time the Secretary must respond within. A further amendment to the Mining Regulation 2016 will ensure there is not an unfair disadvantage to an applicant whose request is refused.

Fees and levies

Proposed amendment/topic	Stakeholder feedback	Response
Administrative levy and late payment fee calculation methods *(cl 79A, 86 and 86C)*	As the decision on the relinquishment of a renewal can take many months, assessment of the levy should be from the date of application, not the assessment date as industry should not have to pay for Government extended or delayed processing time.	We will consider this issue when updating our refund policy.
Payment date for annual rental fees and administrative levies if not in Secretary's written notice *(cl 85A and 86B)*	Consider changing language to 2 months not 60 days for simplicity.	We use 60 days to reduce ambiguity.
Application of fees for authorisations that continue to have effect while renewal applications are assessed	Clause 85(3) should not except the Secretary from refunding annual rental fees for $100 or less when dealing with authorisations that are automatically extended.	We consider that not refunding annual rental fee amounts of less than $100 to be reasonable and appropriate due to the administrative cost of processing and preparing a remittance. Small scale titles are exempt from annual rental fees under section 292G(b) of the *Mining Act 1992*.

(cl 85 and 86A)	Proposed clause 85(4) and 86A(4) assumes that all years have 366 days. Given 3 in 4 years have 365 days, this should be replaced with 365.	The reference to 366 days in the new clause 85(4) replicates the existing approach to calculating the relevant proportion in current clause 85(3). The formula is used to determine the proportion that is charged to the applicant. There will be a nominal benefit to applicants with the additional day every year reducing the calculated cost per day by 1/366. Using 366 days is preferred as it will avoid a separate calculation for non-leap years or calculating periods that include leap days.
Annual rental fees also payable over part units *(cl 80)*	It has been Government practice to charge rental fees for part payments and this issue deserves further review and wider industry understanding of what, how and when the new calculations and charges will be levied.	We will consider publishing guidance on how part units are considered in fee calculations.

Fit and proper

Proposed amendment/topic	Stakeholder feedback	Response
Matters which a decision-maker may take into account in determining whether person is a 'fit and proper person' *(cl 89E)*	The fit and proper test is too broad, including unclear concepts like a person who is 'not of good repute'. For an assessment or title, this should be limited by relevance the individual application or title before a decision-maker.	The proposed fit and proper person criteria set out in section 380A(2), and substantively replicated in the new clause 89E of the Regulation, are very similar to the criteria used in a range of other NSW regulatory regimes, such as the: ▪ *Protection of the Environment Operations Act 1997* (s 83) ▪ *Pesticides Act 1999* (s 5B) ▪ *Radiation Control Act 1990* (s 5). Several other regulatory frameworks in NSW use a 'fit and proper' test but do so without specifying criteria. The test in the *Mining Act 1992* is also similar to, but more comprehensive than, the criteria in other mining-related legislation in other states. The fit and proper criteria are non-exclusive, in that they are matters a decision-maker *may*, but is not bound to, consider (and a decision-maker can always consider other relevant factors). The approach of outlining relevant matters in the
	The decision-maker's ability to subjectively determine whether a person has 'compliance or criminal conduct issues' in clause 89E(5)(a) should be removed.	
	The fit and proper test allows a subjective decision about whether a person is of good repute, has honesty, integrity. The basis should be clearer and communicated in writing.	

	The Amendment Regulation should be amended to resolve the following matters concerning the scope of the fit and proper person test. a) reducing the number of matters for consideration under the fit and proper person test; b) removing subjective considerations from the test such as references to persons of "good repute" or "good character"; c) only serious contraventions that have resulted in convictions or prosecutions should be considered; and d) proposed clause 89E, like the current s380A of the Mining Act, does not include timeframes in relation to the inquiries that may be made by the decision-maker in assessing whether someone is a fit and proper person. It is recommended that 5 years is a suitable timeframe for most of the matters listed.	*Mining Act 1992* and Mining Regulation 2016 gives industry more certainty about what matters might be relevant than an open-ended test of whether a decision-maker considers that a person is not fit and proper. There are also appropriate checks and balances on this discretion including the procedural fairness requirement to give notice and receive and consider submissions from a person before making a fit-and-proper determination against them. In accordance with administrative law principles, decisions must be reasonable, have merit and be based on relevant considerations to be lawful. A fit and proper declaration is an administrative decision which these requirements apply to. Under the new section 395 of the *Mining Act 1992*, there are also appeal avenues to the Land and Environment Court.
Application of 'fit and proper person' regime to joint authorisations and applications *(Part 9B, Division 2: cl 89G, 89H, 89I, 89J)*	The definition of 'relevant legislation' does not clarify if this relates to NSW only or other jurisdictions' legislation. This clause is also duplicative with requirements for 'environment protection legislation' as well as specifying the EPA Act. This should be clarified and ensure these requirements align with similar requirements for other sectors.	The criteria set out in section 89E of the Amendment Regulation is non-exclusive which means the decision-maker may consider the listed factors or any other factors in making a fit and proper determination. This could include considering any contraventions of another jurisdiction's legislation. In respect to 'relevant legislation', this is defined in section 89E(6) of the Amendment Regulation, as the following NSW Acts: (a) the *Mining Act 1992*, (b) the *Petroleum (Onshore) Act 1991*, (c) the environment protection legislation (as set out in the Protection of the Environment Administration Act 1991), (d) the *Environmental Planning and Assessment Act 1979*, (e) the work health and safety legislation (as set out in the Mining Act 1991),

		(f) the *Coal Mine Subsidence Compensation Act 2017*.

Notices

Proposed amendment/topic	Stakeholder feedback	Response
Notice of applications, tender invitations and compensation assessments *(cl 89K)*	Further consultation should take place on this clause as alternatives to provide for the changes to local papers that have been adopted for other sectors include removal of the need to publish (for example local development approvals). In other states, publication is now expanded to company websites, social media, Government website etc that should be considered in NSW.	We are moving the notice requirements into the Mining Regulation 2016 to enable greater flexibility for publication of notices in a manner consistent with how the public now receive information and community and stakeholder expectations. In certain circumstances notices may be published on a website, or another online platform, that is likely to bring the notice to the attention of persons in the local area (section 89K(2)(iii) of the Amendment Regulation).
Department's notice of regulatory reform re conditions imposed by regulation, fees/levies *(cl 32A and 79B)*	Clause 79B should require publication in a newspaper circulating in NSW, as the proposed clause 32A does.	Section 79B is targeted towards pricing changes and is consistent with the kind of legislative updates that are hosted for consultation on the Department's website. Clause 32A has a different purpose and affects rights and obligations of titleholders and therefore require greater coverage.
	Further consultation and benchmarking should take place on the proposed late fees to ensure that these align with other Government late fees.	Late fees will be considered and if further changes are planned, stakeholders will have the opportunity to comment.

Conditions

Proposed amendment/topic	Stakeholder feedback	Response
Matters which may be included as a security deposit condition *(cl 93A)*	Industry recommends further consultation on the new requirements for security deposits including clarification on the meaning and requirements of 'progress reports' and 'independent auditing'.	These requirements already exist in section 261C of the *Mining Act 1992* and are being moved into the Mining Regulation 2016.
Suspension of mining operations *(under section 100 of Mining Act 1992)*	The Amendment Regulation does not include any requirements for suspension of conditions of a consolidated mining lease.	We will consider these requirements in a future amendment to the Mining Regulation 2016.
'Mining area' definition: amendments to include land in vicinity of mining lease area on which an AMA is carried out, if identified by Secretary *(Sch 8A, cl 1)*	The definition of "mining area" refers to a written direction given to the holder of the ML by the Secretary, however it is unknown in what circumstances such a direction will be given. Industry would like to understand the intention behind this provision and obtain clarity as to the circumstances where a direction will or will not be given in respect of an ancillary mining activity carried out in the vicinity of the land the subject of a ML.	This provision will enable the Secretary to give a direction that an off-title ancillary mining activity area will be considered part of the "mining area" for the purposes of the standard rehabilitation conditions in Schedule 8A of the Mining Regulation 2016. The intention with this change is to aid clarity, for both the Department and industry, as to when an off-title ancillary mining activity area will be subject to the standard rehabilitation conditions. Similar to the way that a decision-maker would impose a condition regulating the carrying out of ancillary mining activities under Schedule 1B clauses 7 and 7B, the direction under the revised definition of "mining area" will ensure that both the Department and the holder are clear about when the off-title ancillary mining activity area becomes part of the mining area for the purposes of the standard rehabilitation conditions, including that the ancillary mining activity is to be carried out in the vicinity of and to directly facilitate the mining lease.

Compliance and enforcement

Proposed amendment/topic	Stakeholder feedback	Response
Prescribing offences under Act which may be dealt with via penalty notices *(Schedule 10, re:* *• s 6 — unauthorised carrying out of designated AMAs,* *• s 140 — prospecting to be carried out in accordance with access arrangement,* *• s 246R — offences relating to audit information,* *• s 248B(1) — requirements to provide information and records in accordance with written notice of inspector,* *• s 378D(2) — contravention of mining lease in relation to sublease area,* *• s 394(5) — contravention of direction given to declared person under s 394(2)(d))*	In consideration of the large number of landholders in NSW and difficulty in clarifying land ownership, penalty for prospecting without an access agreement should have provisions for 'show cause' to allow for honest mistakes. Further, consistency of fees and penalty notices as points or in dollars would be a simpler and more consistent approach in this regulation.	We ensure procedural fairness is given in any investigation. This includes providing details of the allegation and the opportunity to respond. Any difficulties in clarifying land ownership can be raised through this process. For penalty notice offences, detailing penalty amounts in dollars is consistent with existing provisions. For offences in the *Mining Act 1992* and Mining Regulation 2016 it is consistent to use penalty units. Currently one penalty unit is equal to $110.
Fossicking using a hand-held metal detector is not an offence under cl 12(2) *(cl 12(2A))*	Proposed clause 2(A) removes the application of important surface disturbing activities for users of handheld detectors. If the intention is to permit use of handheld detectors, this would be more clearly undertaken through an additional subclause instead of removing clause 2(A) for metal detector users.	We will ensure the Amendment Regulation allows for the use of handheld metal detectors or other hand-held equipment for fossicking.

Rehabilitation

Proposed amendment/topic	Stakeholder feedback	Response
Subsurface ML holder may rehabilitate surface disturbance under s 81 of Act *(cl 27)*	While clause 27 adds rehabilitation to the approved surface activities, industry believes the following amendments are also worth considering with respect to providing clarity on for those requiring land access over subsurface mining leases: ▪ Broadening the definition of "ancillary mining activity" (AMA). ▪ To assist with facilitation of underground mining in circumstances where the mining company is not the landholder, the matters in cl 27 could be extended to include: o Prospecting operations, including surface drilling for the purpose of prospecting in a subsurface mining lease; o Access to underground workings; and o Environmental monitoring activities associated with current or proposed future mining activities. Industry recommends the above amendments to provide alternatives for title holders as one or more options may be more suitable depending on the purpose for which the title is required, the duration that access is required, whether the landholder consents to access and whether the title forms part of a broader project.	We will consider industry's recommendations in a future amendment to the Mining Regulation 2016. There are also direction powers under the *Mining Act 1992* which can be used to obtain land access without requiring an authorisation.

Hydrogen

Proposed amendment/topic	Stakeholder feedback	Response
Prescribing of hydrogen and noble gases as minerals under Mining Act *(cl 3, definition of 'excluded helium')* *(Sch 1 and 2)*	It may be preferable to prescribe hydrogen and the noble gases under the *Petroleum (Onshore) Act 1991* (Petroleum Act) rather than as minerals under the Mining Act as aspects of their exploration, evaluation, production, associated water take, strategic regional land-use planning and pipeline authority requirements / characteristics have far more in common with tenements under the Petroleum Act. It is likely that industry participants engaged with these gases will have more in common with the petroleum sector than the minerals sector. Further consideration should be given to whether hydrogen and the noble gases would be better prescribed Petroleum Act.	The *Mining Act 1992* sufficiently addresses the various issues associated with exploration and mining activities for hydrogen and other nonmetals, such as land access, compensation, community consultation, and rehabilitation.

Definitions and miscellaneous

Proposed amendment/topic	Stakeholder feedback	Response
Persons taken to be 'landholders' re reserved land for purposes of Act, Dictionary *(cl 8)*	The definition of 'landholder' should not be removed. The Secretary-kept register could assist small-scale titles applicants and holders. The amendment may affect access management plans.	The definition of 'landholder' in the *Mining Act 1992* will remain and this still allows particular landholders to be prescribed in the Regulation. Omission from the Regulation does not alter the definition which is retained in the Act.

Use of MGA2020 and GDA2020 when supplying standard map with certain applications *(cl 9)*	Commencement of this clause should be delayed to change the standard map from for one year to allow appropriate time for transition.	This clause has a delayed commencement. The MGA, GDA and standard map amendments in the Regulation commence one year after the commencement of the Amendment Regulation (i.e. on 1 March 2024).
2-year application of 'immediate vicinity' standard under s 6(2) and (4) to those lawfully carrying out those activities *(cl 101A)*	"Vicinity" should be defined in the regulations to mean within 20 km of the mining lease area (as per current practice). However, for the purpose of s 63(5) and Sch 1B (relating to granting of mining leases for ancillary mining activities generally) "vicinity" may be given a broader meaning based on factors set out in the regulations.	Transitional arrangements are adopting the broader definition 'vicinity', noting there will not be a distance-based definition on commencement. We will consider these comments further in drafting guidance material.

General Comments

Proposed amendment/topic	Stakeholder feedback	Response
N/A	Cl 23(1)(c) directs that a rehabilitation cost estimate (RCE) must accompany an application for renewal of an AL. RCEs and associated levels of set security are not reassessed at the point of renewal, but rather on provision of statutory ESF2 forms (completion of rehabilitation) or ESF4 forms (activity approval). In consequence statutory form AL3 (Renewal of an AL) currently has unnecessary and confusing questions with respect to the RCE – and seeks the provision of information already in the possession of, and databased by, the Regulator. industry recommends that MEG consider removing subclause 23(1)(c) from the Mining Regulation	The requirement for an RCE will be removed for EL, AL and ML renewal applications and transfer applications. Under the rehabilitation guidelines there are regular intervals at which holders must update RCEs.

	(and remove redundant questions from form AL3).	

PETROLEUM REGULATION

Well head matters

Proposed amendment/topic	Stakeholder feedback	Response
Definition of 'well-head' for purposes of the Act *(cl 51A)*	The use of "and" at the end of 51A(a) reads as though all boxes must be ticked to satisfy the definition	The list in clause 51A(b) is inclusive but does not limit what may be 'equipment installed at the surface of a well to contain pressure and provide an interface' within the meaning of clause 51A(a).
Well-head readings for pricing mechanisms (new s 89, P(O) Act)	Well-head Meters (if installed) are subject to higher amounts of error, measure volumes associated with impurities which cannot be sold, and are subject to issues associated with maintenance/calibration. Common practice is often to use the most reliable meter and determine volume from there.	We will consider this matter further in connection with any proposed updates to the way value is determined.