

# OPERATIONAL REHABILITATION REFORMS

## Questions from online public consultation forums

October 2020

### **When will the rehabilitation guidelines be released?**

The guidelines will be published during the transition period, once the amendments have been adopted and the new Regulation has been made.

### **Is there a specific definition of a hazard?**

Hazard is not defined in the Regulation - it is taken to be the ordinary meaning of the word.

### **Will these changes apply to consolidated coal leases as well as mining leases?**

Yes. These changes apply to all mining leases including coal leases.

### **Is the determination for what is reasonably practicable made solely by the leaseholder or in consultation with the regulator?**

We will be providing further guidance to leaseholders regarding what is considered “reasonably practicable”. The determination of whether the leaseholder is undertaking rehabilitation as soon as reasonably practicable will be made by the Resources Regulator upon consideration of all relevant matters.

### **Will development consents have a requirement to submit a rehabilitation management plan?**

Leaseholders will still be required to comply with any conditions of their development consents issued under the *Environmental Planning and Assessment Act 1979*. As is currently the case, the Rehabilitation Management Plan (RMP) lodged under the development consent and the RMP prepared under the Mining Regulation (currently the Mining Operations Plan) can be the same document. The Resources Regulator will regulate against the RMP lodged under the *Mining Act 1992*.

### **How will submissions on the amendment regulation be assessed?**

All submissions received on the draft regulation amendments and form and way documents will be reviewed and analysed in a timely manner by the Department at the end of the consultation process.

### **How often will a rehabilitation cost estimate be required to be submitted?**

Most mines will lodge a rehabilitation cost estimate (RCE) once every three years to cover the three-year period required by the forward program. However, the leaseholder will be required to ensure annually that the RCE remains valid as part of the submission of the Annual Rehabilitation Report and Forward Program.

If a leaseholder chooses to lodge an RCE based on a “snapshot in time” disturbance footprint, then an RCE will be required every year (which is currently the case) as part of the submission of the Annual Rehabilitation Report and Forward Program.

### **Will small mines have to provide GIS data to the rehabilitation portal?**

Only large mines will have to provide GIS data to the rehabilitation portal.

### **Can a forward program be varied?**

There will be an application process for a large variation. Minor variations should be included in the next Forward Program in consultation with the Resources Regulator provided you are still completing progressive rehabilitation. More guidance will be provided during the transitional period.

### **What happens if the rehabilitation you complete is less than what you predict in your Forward Program?**

In such cases it is the expectation that the leaseholder contacts the Resources Regulator. We will undertake an assessment of whether the leaseholder has met their duties as set out in clause 3 of the draft Regulation – that is, has the leaseholder rehabilitated the land as soon as reasonably practicable after the disturbance occurs.

### **Do I need approval to undertake exploration activities on a mining lease?**

This matter is currently under consideration. It is envisaged that an application for exploration activities on a mining lease (other than exploration already approved under a development consent) would require an application to be lodged with the Department (similar to exploration activity applications on Exploration Licences).

### **Can studies into improvements for rehabilitation outcomes be classed as progressive rehabilitation?**

Yes. Rehabilitation planning is effectively another phase of mining, which is undertaken both progressively over the life of the mine, as well as the end of mining (i.e. total life cycle of a mine).

### **If the Resources Regulator identifies a significant deficiency in an RMP, how will that be addressed given they don't need to be submitted? Can the Regulator direct the lease holder to update the RMP?**

The Resources Regulator can direct the leaseholder to update/amend the RMP pursuant to clause 6(4)(d). The Resources Regulator also has powers under section 240 of the *Mining Act 1992* to issue directions.

### **Do the conditions apply to rehabilitation of underground coal mines?**

Yes, the new mining lease conditions will apply to all mines including underground coal mines.

### **Is there any difference between the final landform plan and what is identified as final landform in the development consent?**

The Final Landform and Rehabilitation Plan (FLRRP) is a spatial depiction of the final landform in the development consent. The FLRRP needs to be consistent with any final landform plan approved as part of the development consent. The FLRRP is likely to be more detailed than the often-conceptual nature of final landform plans approved in development consents.

### **What is the definition of non-compliance?**

A non-compliance is where there has been a breach of a provision of the *Mining Act 1992* and the associated Mining Regulation 2016. This could include a breach of a condition proposed to be included in the Mining Regulation 2016, as part of the current reforms.

### **Who should be involved in risk assessments?**

Risk assessments will be required to be prepared by a range of appropriately skilled people representing a cross section of the workforce at the mine. Leaseholders will be required to ensure the level of detail in the rehabilitation risk assessment is proportionate to the type and scale of activities likely to cause disturbance, as well as the sensitivities of the surrounding environment. We will be preparing guidelines to assist leaseholders to prepare risk assessments.

### **Is rehabilitation required to be undertaken when the mine is in ‘care and maintenance’?**

Even when a mine is in ‘care and maintenance’, the leaseholder must comply with their rehabilitation obligations.

### **Will the term ‘trending towards’ be an acceptable completion criteria?**

No. Completion criteria must be clear, specific, achievable and measurable. Final sign-off on rehabilitation completion will not be given until the completion criteria is fully met.

The term ‘trending towards’ may be appropriate to track progress of achieving the approved completion criteria in reporting requirements.

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