



# Response to submissions

## Draft mine closure completion guideline

Under the *Mining Act 1978* (Mining Act), tenement holders are required to meet a number of rehabilitation and closure obligations agreed upon in an approved mine closure plan (MCP). It is only once all of these obligations have been achieved and demonstrated as complete that the Department of Mines, Industry Regulation and Safety (DMIRS) will formally accept that mine closure and rehabilitation is complete.

In February 2021, DMIRS released the draft guideline to provide clarity on the evidence tenement holders are required to provide to DMIRS to demonstrate that they have met all of the agreed rehabilitation and closure obligations as outlined in their MCP.

This document is a summary of the feedback received and DMIRS' responses to those comments.

A key theme arising from the feedback received was the request for a whole-of-government approach to mine closure and relinquishment. The revised Guideline clarifies that this document is intentionally limited in scope to the *Mining Act 1978*. DMIRS considers it important that the requirements under the *Mining Act 1978* are clearly articulated, as this will inform broader work across government on mine closure and relinquishment. The Guideline has been updated to include a diagram to provide greater clarity on how this document fits into the life of mine process.

### Stakeholder Comments

The review process notified respondents that their submissions would be made publicly available on the DMIRS website.

For the purposes of more easily grouping and responding to feedback from stakeholders, the submissions have been sorted by section of the draft document, however the text of submissions are included verbatim. DMIRS thanks all stakeholders for their considered input into the process.

| General Comments |   |                  |   |   |
|------------------|---|------------------|---|---|
| Ref #            | Stakeholder                               | Section          | Comment   | DMIRS Response/Action   |
| 1.               | <b>Environmental Protection Authority</b> | General Comments | <p>The Environmental Protection Authority (EPA) welcomes Department of Mines, Industry Regulation and Safety's (DMIRS) draft Mine Closure Completion Guideline.</p> <p>Whilst it is understood that the guideline has been developed under the hierarchy of the <i>Mining Act 1978</i> and not the <i>Environmental Protection Act 1986</i> (EP Act), Part IV of the EP Act makes provisions for the EPA to undertake environmental impact assessment (EIA) of significant proposals and strategic proposals, including mining proposals where mine closure is a key issue. The EPA uses environmental principles, factors, and associated objectives as the basis for assessing whether a proposal can be implemented. When assessing mining (and other) proposals, the EPA employs a mitigation hierarchy that includes rehabilitation as a key consideration.</p> <p>Mine Closure is assessed under a number of factors, including the Flora and Vegetation Factor, Terrestrial Fauna Factor, and Inland Waters. The EPA may recommend mine closure conditions in their assessment, compliance against which is assessed separately to DMIRS compliance.</p> <p><b>Draft Mine Closure Completion Guideline</b></p> <p>The EPA generally supports the draft Guideline. In accordance with the 'rehabilitate' element of the mitigation hierarchy, the EPA has particular interest in ensuring a successful completion outcome with regards to re-instating environmental values after unavoidable disturbance. We provide the following comments in this regard:</p> <ol style="list-style-type: none"> <li>1. The EPA recommends that the Guideline makes more reference to additional supporting mine closure guidance that is available to proponents, including, but not limited to, DMIRS' <i>Mine Closure Plan Guidance, Statutory Guideline for Mine Closure Plans</i>, and other technical guidance documents (e.g. <i>Guide to departmental requirements for the management and closure of tailings storage facilities (TSFs)</i> and WABSI's 2019 <i>A framework for developing mine site completion criteria in WA</i>);</li> <li>2. The EPA considers that there would be value in requiring the proponent to include site specific research and pilot experimental work (including any largescale field trials), in the Mine Closure Completion Report;</li> <li>3. It is also noted that for mining proposals that have been referred to the EPA, consideration of relevant EP Act principles and EPA Factors and Objectives in the development of DMIRS approved Mine Closure Plans and Mine Closure Completion Reports would significantly assist to assure the EPA that mine closure could be regulated appropriately under the Mining Act and that duplication is not required under Part IV of the EP Act.</li> </ol> <p>Importantly, the third point relates mainly to recent amendments of the EP Act that enable the EPA to take into account other statutory decision-making processes (such as mine closure plans) which can mitigate the potential impacts of a proposal on the environment. The EPA understands that conversations have already commenced between officers of the Department of Water and Environmental Regulation (DWER) and DMIRS to progress this issue, and would welcome further discussions during the finalisation and implementation of the Mine Closure Completion Guideline.</p> <p><b>Conclusion</b></p> <p>In summary, the EPA is supportive of DMIRS' draft Mine Closure Completion Guideline and believes that the incorporation of the comments above into the final guidance will further improve a proponent's awareness of the importance of delivering against environmental objectives at mine closure.</p> | <p>The <i>Mine Closure Plan Guidance, Statutory Guidelines for Mine Closure Plans</i> and '<i>A framework for developing mine site completion criteria in WA</i>' are listed in the Document Hierarchy section to provide context of how this Guideline fits in the broader mine closure framework; however, it is expected that those documents be considered as part of mine closure planning. The Guideline has been updated to include a diagram to provide greater clarity on how those documents fits into the life of mine process.</p> <p>Please note the DMIRS <i>Statutory Guideline for Mine Closure Plans</i> and <i>Mine Closure Plan Guidance</i> already require the inclusion of site specific research and trials within Mine Closure Plans.</p> <p>EPA's point three is noted and would potentially need to be addressed in updated Mining Proposal and Mine Closure Plan guidelines to allow the EPA to consider these processes in their assessments. DMIRS will continue to engage with EPA through the implementation of the EP Act amendments.</p> |

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| 2.               | <b>Environment Institute of Australia and New Zealand</b> | General Comments | <p>Environment Institute of Australia and New Zealand (EIANZ) Western Australia Division (EIANZ-WA) is pleased to provide feedback on the Draft Mine Closure Completion Guideline (the Draft Guideline) which was released for public comment in February 2021.</p> <p>EIANZ is a not-for-profit, professional association for environmental practitioners. The Institute promotes independent and interdisciplinary discussion on environmental issues and advocates good practice environmental management delivered by competent and ethical environmental practitioners. The definition of "Environment" under the Western Australian <i>Environmental Protection Act 1986</i> (EP Act) includes social surroundings and therefore, consideration of social and heritage values is an important component of conducting our role as environmental practitioners.</p> <p>We forward this submission on behalf of EIANZ-WA members. Currently, we have 170 members in WA while across Australia and New Zealand we have over 2,111 members. Our members come from a range of technical disciplines including certified environmental practitioners (CEnVP), ecological consultants, environmental advocates, heritage consultants, researchers, and environmental specialists working in government, industry and the community.</p> <p>EIANZ-WA supports the Draft Guideline in its current form. The Draft Guideline is a useful reference which clarifies to industry the form and content that DMIRS requires in a Mine Closure Completion Report. It complements the existing resources and legislative requirements including the 2020 Statutory Guideline for Mine Closure Plans and the <i>Mining Rehabilitation Fund Act 2012</i>.</p> <p>EIANZ-WA supports the following components of the Draft Guideline that require the tenement holder to demonstrate:</p> <ul style="list-style-type: none"> <li>• Agreed closure outcomes and completion criteria approved under the site Mine Closure Plan (MCP) have been met.</li> <li>• Compliance with relevant environmental, rehabilitation and mine closure tenement conditions.</li> <li>• Adequate consultation and agreement with key stakeholders and post-mining land managers.</li> <li>• All residual risks have been appropriately considered.</li> </ul> <p>EIANZ-WA also support a staged approach to Mine Closure Completion Reports which encourages progressive rehabilitation whilst enabling tenement holders to plan mine rehabilitation around operation requirements.</p> | Comments noted.       |
| 3.               | <b>Cement Concrete and Aggregates Australia</b>           | General Comments | <p>The Guideline clearly and reasonably details the informal process currently in practice and helps to provide certainty for industry.</p> <p>CCAA notes that the Guideline does highlight the need to have a Mine Closure Plan that is workable and practical as the Mine Closure Completion Report relies on detail/requirements such as the closure criteria defined in the Mine Closure Plan.</p> <p>CCAA does not have any further comment and looks forward to the publication of the Guideline.</p>  | Comments noted.       |

General Comments

| Ref #                             | Stakeholder  | Section              | Comment  | DMIRS Response/Action |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
|-----------------------------------|--|----------------------|--|-----------------------|-------------|----------------------|---------------|-----------------------------------|------------------------|-------|--|-------------------|------------------------|-------|--|----------------------------|------------------------|-------|--|-------------------------------|--|------|---|-----------------------------------|--|------------|----------------------------|-----------------------------------|--|------|-------------------------------|----------------|--|-----|---|--|
| 4.                                | <b>The Chamber of Minerals and Energy of Western Australia (CME)</b> | General Comments     | <p>The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia (WA). CME is funded by member companies responsible for more than 86 per cent of the State's mineral and energy workforce employment.<sup>1</sup></p> <p>CME welcomes the opportunity to provide a submission to the Department of Mines, Industry Regulation and Safety (DMIRS) on the 'Draft Mine Closure Completion Guideline' (the Guideline) released 15 February 2021. The Draft Guideline provides guidance to proponents on the evidence required to demonstrate compliance with closure obligations under the <i>Mining Act 1978</i> (Mining Act) and approved mine closure plan in order to receive formal acceptance from DMIRS.</p> <p>In preparing this submission, CME has sought feedback from member companies. This submission firstly provides general comments on the Guideline followed by feedback on specific content in <b>Appendix I</b>.</p> <p><b>Whole-of-government approach</b><br/>A whole-of-government approach with a clearly defined pathway to achieving closure and relinquishment is required. The Guideline does not represent a whole-of-government approach.</p> <p>The Guideline applies only to the rehabilitation and closure obligations in Mine Closure Plans approved under the Mining Act and the assessment and approval of evidence of completion by DMIRS. The Guideline does not consider other legislation under which rehabilitation and closure obligations can be imposed, or the role of other agencies as regulatory stakeholders and/or post-mining land managers (refer <b>Table 1</b>).</p> <p><b>Table 1:</b> Regulatory instruments under which rehabilitation and closure obligations can be imposed (non-exhaustive list).</p> <table border="1"> <thead> <tr> <th>Regulatory Instrument</th> <th>Legislation</th> <th>Administering Agency</th> <th>Stakeholders*</th> </tr> </thead> <tbody> <tr> <td>Mining Proposal/Mine Closure Plan</td> <td><i>Mining Act 1978</i></td> <td>DMIRS</td> <td>DWER<br/>DBCA<br/>(Crown reserved lands)<br/>DPLH</td> </tr> <tr> <td>Programme of Work</td> <td><i>Mining Act 1978</i></td> <td>DMIRS</td> <td></td> </tr> <tr> <td>Mining tenement conditions</td> <td><i>Mining Act 1978</i></td> <td>DMIRS</td> <td></td> </tr> <tr> <td>Part IV Ministerial Statement</td> <td><i>Environmental Protection Act 1986</i></td> <td>DWER</td> <td>EPA<br/>DBCA<br/>(Crown reserved lands)<br/>DPLH</td> </tr> <tr> <td>Native Vegetation Clearing Permit</td> <td><i>Environmental Protection Act 1986</i></td> <td>DWER/DMIRS</td> <td>DBC (Crown reserved lands)</td> </tr> <tr> <td>Part V Works Approval and Licence</td> <td><i>Environmental Protection Act 1986</i></td> <td>DWER</td> <td>DBC<br/>(Crown reserved lands)</td> </tr> <tr> <td>Closure Notice</td> <td><i>Environmental Protection Act 1986</i></td> <td>DER</td> <td>DMIRS<br/>DBCA<br/>(Crown reserved lands)<br/>DPLH</td> </tr> </tbody> </table> | Regulatory Instrument | Legislation | Administering Agency | Stakeholders* | Mining Proposal/Mine Closure Plan | <i>Mining Act 1978</i> | DMIRS | DWER<br>DBCA<br>(Crown reserved lands)<br>DPLH | Programme of Work | <i>Mining Act 1978</i> | DMIRS |  | Mining tenement conditions | <i>Mining Act 1978</i> | DMIRS |  | Part IV Ministerial Statement | <i>Environmental Protection Act 1986</i> | DWER | EPA<br>DBCA<br>(Crown reserved lands)<br>DPLH | Native Vegetation Clearing Permit | <i>Environmental Protection Act 1986</i> | DWER/DMIRS | DBC (Crown reserved lands) | Part V Works Approval and Licence | <i>Environmental Protection Act 1986</i> | DWER | DBC<br>(Crown reserved lands) | Closure Notice | <i>Environmental Protection Act 1986</i> | DER | DMIRS<br>DBCA<br>(Crown reserved lands)<br>DPLH | <p>The department acknowledges CME's view that a whole-of-government approach is their desired outcome. This document is intentionally limited in scope to the <i>Mining Act 1978</i>. DMIRS considers it important that the requirements under the <i>Mining Act 1978</i> are clearly articulated, as this will inform broader work across government on mine closure and relinquishment.</p> |
| Regulatory Instrument             | Legislation  | Administering Agency | Stakeholders*  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Mining Proposal/Mine Closure Plan | <i>Mining Act 1978</i>   | DMIRS                | DWER<br>DBCA<br>(Crown reserved lands)<br>DPLH   |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Programme of Work                 | <i>Mining Act 1978</i>   | DMIRS                |  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Mining tenement conditions        | <i>Mining Act 1978</i>   | DMIRS                |  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Part IV Ministerial Statement     | <i>Environmental Protection Act 1986</i>                             | DWER                 | EPA<br>DBCA<br>(Crown reserved lands)<br>DPLH  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Native Vegetation Clearing Permit | <i>Environmental Protection Act 1986</i>                             | DWER/DMIRS           | DBC (Crown reserved lands)   |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Part V Works Approval and Licence | <i>Environmental Protection Act 1986</i>                             | DWER                 | DBC<br>(Crown reserved lands)  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |
| Closure Notice                    | <i>Environmental Protection Act 1986</i>                             | DER                  | DMIRS<br>DBCA<br>(Crown reserved lands)<br>DPLH  |                       |             |                      |               |                                   |                        |       |  |                   |                        |       |  |                            |                        |       |  |                               |  |      |   |                                   |  |            |                            |                                   |  |      |                               |                |  |     |   |  |

General Comments

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| Regulatory Instrument  | Legislation  | Administering Agency | Stakeholders*   |  |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |
| Permit to interfere with bed and banks (Section 11, 17, 21A) | <i>Rights in Water and Irrigation Act 1914</i>                       | DWER                 | DMIRS<br>DBCA<br>(Crown reserved lands)<br>DPLH   |  |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |
| State Agreement and State Agreement tenure conditions        | <i>Relevant State Agreement Act</i>                                  | DJTSI                | DMIRS<br>DWER<br>DBCA<br>(Crown reserved lands)<br>DPLH   |  |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |
| Remedial Action Plan/ Site Management Plan                   | <i>Contaminated Sites Act 2003</i>                                   | DWER                 | DMIRS<br>DBCA<br>(Crown reserved lands)<br>DPLH   |  |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |
| Tenure Conditions  | <i>Land Administration Act 1997</i>                                  | DPLH                 | DWER<br>DMIRS<br>DBCA<br>(Crown reserved lands)   |  |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |
| 5.   | <b>The Chamber of Minerals and Energy of Western Australia (CME)</b> | General Comments     | <p><b>Scope of application</b></p> <p>The scope of the Guideline appears to be limited to projects with a Mining Proposal and associated Mine Closure Plan approved under the <i>Mining Act 1978</i> (the Mining Act). The Guideline states that it does not apply to disturbances that are the result of activities approved under Programmes of Work.</p> <p>It is unclear whether the Guideline applies in other situations such as to State Agreement tenure and all mining tenements granted under the Mining Act for which Mining Proposals may exist and how the guideline will apply to historic operations that have already ceased operations.</p> <p>CME recommends the Guideline be revised to clarify the scope of its application.</p>  | The department clarifies that the scope of the Guideline specifically relates to providing evidence that rehabilitation and closure obligations under the Mining Act have been met. This includes all projects that are still operating under the Mining Act, or have previously required to submit a Mine Closure Plan. |             |                      |               |  |  |      |   |   |                                     |       |   |  |                                    |      |   |                   |                                     |      |   |  |

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| 6.               | <b>The Chamber of Minerals and Energy of Western Australia (CME)</b> | General Comments | <p><b>Closure and relinquishment pathway</b><br/>The signoff of rehabilitation and closure obligations is a broadly recognised pre-requisite to relinquishment; however, the Guideline lacks clarity regarding its link to the pathway for closure and relinquishment. How the development, assessment, and approval of a Mine Completion Closure Report is connected to and aligned with the broader closure and relinquishment pathway needs to be detailed.</p> <p>CME recommends the Guideline be revised to detail how the development, assessment, and approval of a Mine Completion Closure Report fits into the broader closure and relinquishment pathway.</p> <p>In the development of a much needed whole-of-government pathway to closure and relinquishment, further work should be undertaken to consider the relinquishment pathway more holistically and investigate issues including, but not limited to, residual risks, and refinement and usage of the Mining Rehabilitation Fund. CME looks forward to working with Government to further this important reform work.</p>   | The Guideline has been amended and a diagram included to provide greater clarity on how the document fits into the life of mine process.  |
| 7.               | <b>The Chamber of Minerals and Energy of Western Australia (CME)</b> | General Comments | <p><b>Changing stakeholder expectations</b><br/>Changing stakeholder expectations present a significant risk to industry in planning for and achieving successful closure and relinquishment. During the assessment of a Mine Completion Closure Report, proponents have experienced unexpected delays due to changing regulator expectations regarding agreed completion criteria and evidence requirements. Clarification is required that agreed completion criteria will not be amended at the Mine Completion Closure Report assessment stage unless mutually agreed.</p> <p>CME recommends the Guideline be revised to clarify that agreed completion criteria cannot be amended during assessment of a Mine Completion Closure Report.</p>  | <p>Section 3 of the Guideline states "This guideline specifically relates to the completion of rehabilitation and closure obligations identified in approved MCPs required under the Mining Act". As per this statement, it is only previously agreed closure obligations in a mine closure plan that DMIRS will be considering when assessing completion reports. Amendments to completion criteria can be made through an amended mine closure plan.</p> <p>Evidence requirements will be considered on a case-by-case basis based on the monitoring information included in the approved mine closure plan. DMIRS may also request additional information where the report does not provide adequate information to demonstrate completion criteria have been met.</p> |
| 8.               | <b>The Chamber of Minerals and Energy of Western Australia (CME)</b> | General Comments | <p><b>Consistency and practicability</b><br/>The Guideline is sufficiently high level to enable proponents the flexibility to apply the Guideline in a fit-for-purpose manner without unduly administrative prescription and reporting burden. However, this presents the risk of inconsistent interpretation and application by Assessing Officers. An effective, clearly defined dispute resolution process is needed for situations where, despite best efforts, inconsistent interpretation and application has occurred.</p> <p>CME supports flexibility for proponents to apply the Guideline in a fit-for-purpose manner, however, strongly recommends regulator staff are sufficiently aligned in their interpretation of the Guideline to ensure consistency and practicability of application across industry.</p> <p>CME recommends a clear dispute resolution process be defined to provide proponents an avenue for addressing inconsistent interpretation and/or application of the Guideline.</p> <p><b>Conclusion</b><br/>CME thanks DMIRS for the opportunity to comment on the Guideline and looks forward to continuing to work with DMIRS through this reform process.</p> | The department acknowledges and agrees that consistency and practicability of application is essential and confirms that internal training and guidance will be undertaken to support this.   |

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| Ref #            | Stakeholder   | Section          | Comment  | DMIRS Response/Action  |
| 9.               | <b>Iluka Resources</b>  | General Comments | <p>Iluka welcomes the development of these Guidelines as they provide clarity of DMIRS' expectations for completion.</p> <p>Ideally, a whole-of-government approach to Completion would provide even further clarity for industry, however, Iluka understands the challenges to achieving this.</p> <p>Whilst whole-of-government guidelines for Completion may not be achievable in the short term, agreed principles across agencies may be a realistic starting point and provide alignment. Principles could include (but not limited to):</p> <ul style="list-style-type: none"> <li>• support for progressive rehabilitation completion of sites (both spatially and by aspect).</li> <li>• a focus on reducing duplication.</li> <li>• agreement on timeframes for assessing completion reports.</li> <li>• risk-based approach to assessing Completion, rather than an audit based approach.</li> </ul> <p>Additionally, it may be beneficial to visually show the interaction between DMIRS internal processes (Mining Proposal, Closure Planning, Risk Assessments, Setting Standards (Outcomes/Completion Criteria), Completion Reporting, MRF etc) by process/flow diagrams.</p> <p>As these are the first DMIRS Completion Guidelines, it is expected that applications received in the next few years will highlight new issues that may not have been contemplated in this version. It is suggested that DMIRS provide a commitment to review these Guidelines in the next 2-3 years</p>  | <p>The department acknowledges Iluka's view that a whole-of-government approach is their desired outcome. This document is intentionally limited in scope to the <i>Mining Act 1978</i>. DMIRS considers it important that the requirements under the <i>Mining Act 1978</i> are clearly articulated, as this will inform broader work across government on mine closure and relinquishment.</p> <p>The Guideline has been updated to include a diagram to provide greater clarity on how this documents fits into the life of mine process.</p> <p>The Guideline will be added to DMIRS' document review schedule which is available <a href="#">here</a>.</p>  |
| 10.              | <b>Association of Mining and Exploration Companies (AMEC)</b> | General Comments | <p><b>Introduction</b><br/>AMEC appreciates the opportunity to provide a submission to the Department of Mining, Industry Relations and Safety (DMIRS) on the draft Mine Closure Completion Guideline. AMEC has been engaged with the Department throughout the Mining Proposal and Mine Closure reforms, and requests continued engagement as this next stage of reforms progresses.</p> <p><b>General feedback</b><br/>AMEC appreciates the intent behind the draft guideline, to provide clarity on the evidentiary requirements tenement holders should provide to demonstrate they have met the agreed closure obligations and environmental conditions outlined in their mine closure plans. In light of streamlining, the Guideline should include the Environmental Protection Agency (EPA) and Department of Water and Environmental Regulation (DWER), in addition to DMIRS.</p> <p>Finally, similar to our concerns raised in the 2019 consultation process, AMEC seeks further engagement with DMIRS to ensure the proposed and eventual changes to this guidance material will not result in unintended consequences for our industry.</p> <p><b>Input to 2019 Reforms</b><br/>AMEC appreciated the Department's briefing sessions provided to members in November 2019, to discuss the then proposed reforms to the Mining Proposal and Mine Closure Plan guidance materials. These updated materials were the outcome of previous discussions between AMEC and DMIRS, relating to the Reforming Environmental Regulation agenda.</p> <p>Environmental application processes are complex and costly. AMEC has been engaged in long-term advocacy to reduce the cost and complexity of these processes, to provide certainty and predictability to industry and potential investors. Despite this process, concern still remains in industry, that the statutory guidance materials remain too prescriptive, and could result in further delays and unnecessary costs.</p> <p>We welcome opportunities for industry and regulators to meet, to gain a common understanding of areas which are currently unclear, or could be streamlined further, to alleviate these concerns.</p> <p>AMEC has previously hosted workshops between DMIRS and industry, and offers to do so again to finalise this draft document.</p> | <p>Comments noted.</p> <p>The department acknowledges AMEC's view that a whole-of-government approach is the desired outcome, and that DWER and EPA requirements should be addressed in the Mine Closure Completion Report. This document is intentionally limited in scope to the <i>Mining Act 1978</i>. DMIRS considers it important that the requirements under the <i>Mining Act 1978</i> are clearly articulated, as this will inform broader work across government on mine closure and relinquishment. In addition, the Guideline has been updated to include a diagram to provide greater clarity on how those documents fits into the life of mine process.</p> <p>DMIRS appreciates AMEC's feedback and engagement, and looks forward to working with AMEC further on these matters and broader reforms to ensure that there is a common understanding between regulators and industry and that application processes are streamlined where possible.</p> |

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| Ref #            | Stakeholder | Section                                  | Comment  | DMIRS Response/Action   |
| 11.              | <b>DBCA</b> | General Comments                         | <p>I refer to the draft Mine Closure Completion Guideline currently advertised on the Department of Mines, Industry Regulation and Safety's (DMIRS) website for public consultation.</p> <p>The Department of Biodiversity, Conservation and Attractions (DBCA) has reviewed the guideline in relation to matters relevant to the department's responsibilities under the <i>Conservation and Land Management Act 1984</i> (CALM Act) and provides the attached comments.</p> <p>Of key interest to DBCA in relation to this guideline is the closure outcomes and post mining land use for projects located on DBCA-managed lands, particularly public reserves managed under the CALM Act. A key consideration within the advice provided by DBCA is the critical role of the Minister for Environment and statutory bodies responsible for these lands in agreeing to mining operations on these important public reserves in the first instance. In general, it is DBCA's view that the expectation should be that the closure verification process ensure that the post closure land use outcomes and residual risks identified at the time of proposed closure accord with those identified at the time of proposed closure accord with those identified at the time of mining consent. There should also be provision for addressing State approval of variance in these aspects where this is necessary and acceptable to the community and does not undermine the authority of Government in decisions relating to mining on reserved land.</p>   | <p>It is DMIRS' expectation that any discussions regarding the post-mining land use and residual risks would be discussed with stakeholders prior to a Closure Completion Report being submitted for review. These matters should be addressed during the development and review of a mine closure plan. Where there are interactions with DBCA-managed lands, DBCA will be requested to provide advice on the mine closure plan.</p>   |
| 12.              | <b>AMEC</b> | Document Hierarchy                       | <p>The addition of a document hierarchy on page 2 is supported by AMEC as an important clarification.</p>  | <p>Comments noted.</p>  |
| 13.              | <b>AMEC</b> | Outcome-based approach                   | <p>AMEC continues to engage with various Government agencies to iterate the importance of implementing risk-based approaches to regulation, where conditions are commensurate with the level of risk posed. Our Industry is heavily regulated by Commonwealth and State legislation, with many areas of duplication and cross-over, especially on environmental elements. It is important that where possible, these requirements can be streamlined to reduce the significant burden that currently exists on both industry and regulators alike, creating increased costs and delays, and reducing the certainty required to secure investment.</p> <p>The language of the guideline is at times too prescriptive. This is unnecessary, so for example, the word, "must" should be replaced with by "may". There has to be a risk-based consideration of whether certain information is needed, rather than reduce mine closure to a box ticking exercise.</p> <p>Industry considers that prescriptive requirements are generally not best placed to address environmental concerns, due to the varying biospheres in which each project is located. The size of Western Australia and the different ecological and geographical variances within each region, require consideration of different environmental factors. It is important that projects are able to consider their unique project attributes in relation to their potential or actual impacts on the environment, and create plans that demonstrate consideration of these particular circumstances. The ability to do this requires an element of flexibility that is typically removed when prescriptive requirements and statutory obligations are in place.</p> | <p>The department acknowledges the need for flexibility of the information provided due to differences in circumstances.</p> <p>The guideline has been modified to account for this where the information requirements may not apply in all circumstances, however "must" remains where it describes the outcome that needs to be demonstrated to set DMIRS expectations of acceptable closure. For example, the application must be able to demonstrate that the agreed post mining land use has been achieved. This is not a prescriptive requirement, as the type of information and analysis provided in the report will differ in each circumstance.</p> |
| 14.              | <b>AMEC</b> | Relinquishment of tenements post-closure | <p>The draft Mine Closure Completion Guideline does not reference the relinquishment of tenements post-closure. This is the logical next step post-closure. Industry is concerned that there could be widespread implications arising from this omission.</p> <p>Within this Guideline, operators should be encouraged to discuss their relinquishment plans, and the regulator should provide guidance on how proponents should consider relinquishment and next steps. As operators are already required to demonstrate relinquishment criteria within the Mine Completion Report, the information provided in the Mine Closure Plan should be able to be transposed to the Report.</p> <p>This is an important oversight that should be rectified via a direct reference within the Purpose of the Guideline via an additional step referencing an agreement to surrender and formally relinquish the tenements if proposed by the tenement holder, and also in the information the Mine Closure Completion Report should contain.</p>  | <p>The mine closure completion process detailed in this Guideline is separate to the surrender of tenure under the <i>Mining Act 1978</i>. DMIRS has updated the Scope section in the Guideline to clarify this.</p> <p>Tenement holders are encouraged to discuss plans to surrender tenure with DMIRS and this mine closure completion process may provide confidence to tenement holders that they have met their closure obligations upon surrender.</p>  |



| General Comments |             |                                 |   |  |
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| Ref #            | Stakeholder | Section                         | Comment   | DMIRS Response/Action  |
| 15.              | AMEC        | Unconditional performance bonds | Within the Purpose of the guidance section, dot point three discusses the initiation of a review of any relevant unconditional performance bonds held for compliance with tenement conditions related to the rehabilitation that has been completed. If the completion criteria from the MCP have been achieved, as stated, the corresponding activities will be considered to be concluded. Rather than a further unconditional performance bond review being initiated during this step, it should be deemed completed, as all criteria have been met.  | The department clarifies that the release of mining securities follow particular provisions under the Mining Act. It is likely that if the Mine Closure Completion Report is submitted and approved, DMIRS will initiate the review of any relevant unconditional performance bonds held against that area. Further detail on this process can be found in DMIRS' <a href="#">Mining Securities Policy</a> and <a href="#">Mining Securities Procedure</a> . |
| 16.              | CME         | 1. Purpose                      | <p>The process for assessment and approval of a Mine Closure Completion Report is not described. The process should include a timebound requirement for DMIRS to formally acknowledge receipt, whereby DMIRS confirms:</p> <ul style="list-style-type: none"> <li>- The lodged Mine Closure Completion Report is conforming, or, if non-conforming, the way/s in which it does not conform to the requirements of the Guideline</li> <li>- The proposed timeline for assessment of the lodged Report by DMIRS</li> <li>- The nominated DMIRS Assessing Officer as the ongoing point of contact for the proponent.</li> </ul> <p>The process should include feedback loops and take no longer than six (6) months from lodgement of a conforming Report with DMIRS to approval unless otherwise agreed with the Proponent.</p> <p>CME recommends the Guideline be revised to outline the assessment and approval process for a Mine Closure Completion Report.</p> | The assessment and acceptance process for a Mine Closure Completion report will be reflected in future revisions to the DMIRS <a href="#">Environmental Applications Administrative Procedures</a> . This Guideline is intended to provide guidance on how to demonstrate completion of mine closure rather than include procedural information.   |
| 17.              | Iluka       | 1. Purpose                      | <p>The guideline states that:</p> <p><i>If DMIRS accepts that the completion criteria from the MCP have been achieved, the corresponding mining activities will be considered to be concluded and DMIRS will:</i></p> <ul style="list-style-type: none"> <li>• <i>issue formal written acknowledgement that rehabilitation obligations pertaining to the Mining Act and closure outcomes and completion criteria as outlined in the approved MCP have been achieved;...</i></li> </ul> <p>The Guideline does not address what, if any, information or evidence needs to be provided to address "rehabilitation obligations pertaining to the Mining Act". If the completion report is not required to specifically assess rehabilitation obligations under the Mining Act then this should be clearly stated in the Guideline.</p>  | Comments noted. The Guideline has been modified to clarify that it is the closure outcomes agreed upon in the mine closure plan that are required to be achieved. A definition of closure outcomes has been included in the Glossary.  |
| 18.              | Iluka       | 1. Purpose                      | <p>In relation to:</p> <p><i>"remove the relevant tenement conditions related to submission of annual environmental reports (AERs) and MCPs"</i></p> <p>.. all of the environmental conditions related to the approved mining activities should be removed, not just the reporting related conditions.</p>  | Depending on the scope of the closure completion report, some environmental conditions may still be relevant to the tenement or to particular features on the tenement that have not been completed.   |
| 19.              | Iluka       | 1. Purpose                      | This section refers to reviews of relevant unconditional performance bonds following DMIRS' acceptance of completion. It should also describe what happens in relation to the MRF.  | As per section 4.2 of the Guideline, following successful completion of mining activities, the land will be classified as rehabilitated land and will no longer be subject to reporting under the MRF.   |
| 20.              | CME         | 2. Objectives                   | <p>The intent of the objective "the information required by DMIRS for formal acceptance that rehabilitation of mine sites has been completed, in the form of a Mine Closure Completion Report" (p3) is unclear and is not linked to broader closure obligations (only rehabilitation).</p> <p>CME recommends rewording the objective to encompass broader closure obligations as well as rehabilitation:</p> <p>"the information required by DMIRS for formal acceptance that <del>agreed closure obligations</del> of mine sites have been achieved, in the form of a Mine Closure Completion Report".</p>   | The Guideline has been modified to reflect this.   |

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| Ref #            | Stakeholder  | Section                        | Comment  | DMIRS Response/Action  |
| 21.              | <b>Iluka</b> | 2. Objective                   | <ul style="list-style-type: none"> <li>• <i>how this guideline relates to other statutory requirements.</i></li> </ul> <p>Whilst it's clear that the Guideline only addresses rehabilitation completion under the <i>Mining Act 1978</i>, there is significant opportunity to expand on how the Guideline <i>relates</i> other statutory requirements.</p> <p>Of particular interest is how this guideline relates to mine sites regulated under Part IV of the EP Act, State Agreement Acts.</p> <p>In addition on how the Guidelines relate to other statutory requirements, clarity on how agencies will interact would be beneficial. For example, under what circumstances will a Completion Report be referred to another agency. Will the proponent be advised of this etc?</p>   | The scope of this document is demonstrating that rehabilitation and closure obligations under the Mining Act and as agreed to in a mine closure plan have been met. DMIRS may seek advice from other agencies on mine closure completion report on a case-by-case basis depending on the particular context of the site and whether those agencies may be a key stakeholder. In instances where DMIRS seeks advice from another agency the applicant will be advised.  |
| 22.              | <b>AMEC</b>  | 3. Scope                       | <p>Mine closure plans and completion works are statutory obligations on project proponents to meet the expectations of DMIRS, the Environmental Protection Authority WA (EPA), and the Commonwealth, under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act).</p> <p>While DMIRS sets conditions and obligations for MCPs, they must align with other legislative requirements. It is impractical for one mine site to potentially have MCPs conditioned under different Acts, to have different obligations. Industry considers there is an opportunity to reduce elements of duplication and the content of information required, without compromising environmental outcomes.</p> <p>The current draft does not streamline mine closure from an Industry perspective. DMIRS should work with the EPA, DWER and Department of Lands to draft an inclusive document that takes an operating project to closure through to relinquishment.</p> <p>To not do so leaves the navigation of the system with the proponent. This is a crucial stage for a project and the community. The greater the clarity of the information available the better the outcomes achieved.</p> | The department acknowledges AMEC's view that a whole-of-government approach is their desired outcome. This document is intentionally limited in scope to the <i>Mining Act 1978</i> . DMIRS considers it important that the requirements under the <i>Mining Act 1978</i> are clearly articulated, as this will inform broader work across government on mine closure and relinquishment. In addition, the Guideline has been updated to include a diagram to provide greater clarity on how those documents fits into the life of mine process. |
| 23.              | <b>AMEC</b>  | 4.1 Mining Act                 | The environmental objectives a MCP is required to meet are set under Section 700 of the Mining Act. The wording in 4.1 of this guidance that rehabilitation and closure requirements need to meet the DMIRS environmental objectives should be amended, as this could create inconsistent applications of the legislation. "DMIRS" should be removed from the statement "The purpose of a MCP is to ensure that there is a planning process in place so that the mine can be closed, decommissioned and rehabilitated to meet the DMIRS environmental objectives."   | The department clarifies that section 4.1 is referring to DMIRS' environmental objectives as detailed in the department's <a href="#">Environmental Objectives Policy for Mining</a> .   |
| 24.              | <b>Iluka</b> | 4.2 Mining Rehabilitation Fund | <p>This section could be more detailed to describe the Completion Reporting and MRF process. What are the steps from completion reporting, assessment and acceptance by DMIRS, changes to Mining Rehabilitation Fund database, MRF reporting requirements.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• <i>who</i> determines whether the rehabilitation has been completed in accordance with the closure obligations?</li> <li>• how does that re-classification of 'land under rehabilitation' to 'rehabilitated land' occur in the MRF system? Can the proponent simply not report or is DMIRS required to first update the MRF system to reflect the land no longer has a rehabilitation liability?</li> </ul>  | These details are out of scope of the Guideline. Procedural aspects will be considered during future reviews of the DMIRS <a href="#">Environmental Applications Administrative Procedures</a> .   |
| 25.              | <b>CME</b>   | 4.3 Contaminated Sites Act     | <p>The Guideline states that it does not cover the regulatory process under the <i>Contaminated Sites Act 2003</i> (the CS Act). However, where a contaminated site assessment is completed as required under the CS Act, the Guideline lacks clarity as to whether evidence of the completed assessment is required to be included in the Mine Closure Completion Report.</p> <p>CME recommends the Guideline be revised to clarify whether evidence of a completed contaminated site assessment (as required under the CS Act) is required to be included in the Mine Closure Completion Report.</p>   | The need for evidence of a completed contaminated site assessment is determined on a case-by-case basis. A proponent will be made aware if they are required to submit one as part of their report.  |

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| Ref #            | Stakeholder | Section                    | Comment   | DMIRS Response/Action   |
| 26.              | AMEC        | 4.3 Contaminated Sites Act | <p>Industry recommends amending the statement that this guideline does not cover the regulatory process under the Contaminated Sites Act, which sits separate to any "processes under the Mining Act", to "...any obligations under the Mining Act."</p> <p><b>Environmental legislation, approval, and the Department of Lands</b><br/>For completeness, Industry recommends that the guidance cite likely environmental legislation, and reference environmental conditions that should be considered in the closure process.</p> <p>The Department of Lands is the likely recipient of land post mine closure and relinquishment. As stated above, the lack of commentary on relinquishment is disappointing. This section should also provide reference to legislative considerations that Department of Lands may have.</p>  | <p>The department acknowledges AMEC's view that a whole-of-government approach is their desired outcome. This document is intentionally limited in scope to the <i>Mining Act 1978</i>. DMIRS considers it important that the requirements under the <i>Mining Act 1978</i> are clearly articulated, as this will inform broader work across government on mine closure and relinquishment.</p>   |
| 27.              | Iluka       | 4.3 Contaminated Sites Act | <p>Iluka agrees that the Contaminated Sites processes are separate to Mining Act processes and that these regulations should run independently as much as possible.</p> <p>Given the robustness and detailed requirements of the CS Act, where contaminated sites have been reported under the CS Act, the Completion Report should provide <i>evidence of compliance</i> with the CS Act, rather than present duplicate technical information for assessment by DMIRS.</p>   | <p>The need for evidence of a completed contaminated site assessment is determined on a case-by-case basis. A proponent will be made aware if they are required to submit one as part of their report.</p>  |
| 28.              | CME         | 5. Guideline               | <p>CME recommends revising the subheadings to 5.1, 5.2, 5.3, etc. to better align with the formatting of the document.</p> <p>CME supports application of the Guideline for progressive closure and signoff.</p>  | <p>This section of the Guideline details the structure that closure completion reports should take i.e. they are the sections of the report and not subheadings of the Guideline.</p>   |
| 29.              | AMEC        | 5. Guideline               | <p>A company that seeks to close a mine, will in all likelihood have been required to submit and receive approval for their mine closure proposal multiple times. The mine closure proposal is drafted in a manner to facilitate the successful closure of a mine.</p> <p>This should be acknowledged.</p> <p><b>Residual Risk</b><br/>The Guidance material introduces a new concept by making brief mention that "all residual risks have been appropriately considered". We ask that this dot point is removed, and that the Department consult separately, and comprehensively, on residual risk.</p> <p>There is a lack of precision as to how DMIRS' conception of residual risk differs from that of DWER or the EPA. Some, if not all, residual risk has been accounted for through the offset's hierarchy. DMIRS may be double accounting. There is also ambiguity as to what is considered a significant residual risk, and how that is defined and by whom. This should be consulted upon separately.</p> <p>The addition of residual risk introduces duplication and does not provide "guidance on how to present evidence to DMIRS for consideration".</p> | <p>The concept of residual risk already exists within a mine closure plan and is expected to be considered as part of risk assessments undertaken during mine closure planning. The intent of this section is to summarise closure risks identified in the mine closure plan and demonstrate how they have been addressed and whether there are remaining residual risks. The acceptability of the residual closure risks will be assessed on a case-by-case basis.</p> |

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| Ref #            | Stakeholder | Section                | Comment  | DMIRS Response/Action  |
| 30.              | Iluka       | 5. Guideline (General) | <p>Throughout this section there is a mix of information on the proponent's completion assessment process and completion report content. These aspects should be addressed separately, and the Completion Report content requirements should be clearly identifiable (e.g. via dot point lists or in highlighted boxes). This approach would align more with other DMIRS guidelines where contextual information/guidance information is separated from mandatory requirements.</p> <p>For example,</p> <p><b>3. Stakeholder Engagement</b></p> <p><i>This section must clearly detail who the key stakeholders are, what consultation has been undertaken and what the outcomes of the consultation were [this relates to completion report content]. The level of stakeholder engagement will be dependent on the specific post mining land use and completion criteria relevant to each site [this relates to completion assessment process].</i></p> <p><i>It is expected that prior to submission of the Mine Closure Completion Report, appropriate engagement has been undertaken to determine the acceptability of rehabilitation to the underlying land users, land managers or other relevant stakeholders [this relates to completion assessment process]. Any negotiated commitments or agreement with agencies or stakeholders in relation to closure should be outlined in the Mine Closure Completion Report [this relates to completion report content].</i></p> <p>And</p> <p><b>5. Closure outcomes and completion criteria</b></p> <p><i>This section should provide clear and comprehensive information on the performance of rehabilitation <b>together with</b> interpretation of results by an appropriately qualified person. Any relevant studies and/or reports should be included as appendices [this relates to completion report content].</i></p> <p><i>In order to submit the report, appropriate monitoring data or other relevant evidence should have been gathered to demonstrate that completion criteria have been achieved. Monitoring should have been completed in accordance with the MCP and until it can be demonstrated that criteria have been met [this relates to completion assessment process].</i></p> <p>And</p> <p><b>6. Determination of Post Closure Risks</b></p> <p><i>This section should contain a summary of the closure risks identified in the MCP, demonstrating how the risks have been addressed and an assessment of the remaining residual risks [this relates to completion report content]. The acceptability of any residual closure risks will be dependent on the specific circumstances of the site and will be considered by DMIRS on a case-by-case basis [this relates to the Department's assessment process].</i></p> | The structure of this section has been revised and amended.  |
| 31.              | Iluka       | 5. Guideline           | <p>This section states the "Completion Report should demonstrate compliance with relevant environmental, rehabilitation and mine closure tenement conditions", however this is not reflected in the subsequent sections following "the Mine Closure Completion Report should contain the following information:" {See comment in Purpose section}</p>  | The wording in the Guideline has been updated to clarify that a closure completion report is not expected to explicitly address mine closure tenement conditions as the consideration and identification of these will be incorporated into a mine closure plan. |
| 32.              | Iluka       | 5. Guideline           | <p>"Mine Closure Completion reports can be completed and submitted to DMIRS in a staged approach as portions of mine disturbance are rehabilitated, or for an entirety of a mine".</p> <p>Iluka strongly supports this approach. In addition to <i>spatial</i> staging of completion, consideration should be given to a staged approach to 'signing-off' of environmental factors/objectives/outcomes. E.g. The time-frame for meeting native vegetation rehabilitation outcomes, may be much longer than the time-frame required to meet groundwater protection outcomes.</p>  | Support noted with thanks.   |
| 33.              | Beiha Yanez | 5 (2) Project Overview | <p>Rehabilitation envelope clearly showing the relevant rehabilitated areas <b>and all remaining areas within the mining lease/s</b></p>   | Comments noted with thanks. The guideline has been modified to reflect this.   |

| General Comments |                    |                               |   |   |
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| Ref #            | Stakeholder        | Section                       | Comment   | DMIRS Response/Action   |
| 34.              | <b>Iluka</b>       | 5 (3) Stakeholder Engagement  | <p><i>"The Department's standard requirement is that all equipment and infrastructure is removed and/or appropriately disposed. Where infrastructure will be retained it must be formally transferred to a third party who can inherit the management liability."</i></p> <p>This section needs to address the expectations for retention of infrastructure on land owned by the proponent. This often occurs where the infrastructure is considered an asset which adds value to the land. Where the proponent owns the land, it is not possible to formally transfer the infrastructure to a third party.</p>   | Comments noted and the guideline has been modified to provide greater clarity.  |
| 35.              | <b>AMEC</b>        | 5 (3) Stakeholder Engagement  | <p>Within the 5. Guideline section, tenement holders are required to submit a Mine Closure Competition Report that demonstrates "confirmation of adequate consultation and agreement with key stakeholders and post-mining land managers". It is not always possible to engage with all key stakeholders, despite multiple attempts from the tenement holder. To meet the realities of such interactions, it is recommended the words "confirmation of" are removed from this dot point (three).</p> <p><b>Premeeting with Government</b><br/>On page 4 it is stated, mid-paragraph, that "Prior to submitting a Mine Closure Completion Report, it is recommended that tenement holders contact DMIRS to confirm they meet requirements". AMEC is supportive of clear communication. This meeting should be highlighted in its own separate section. It seems a critical step in the process, and due to formatting is lost.</p>   | <p>The department considers that, in cases where the stakeholder does not respond, evidence of attempted consultation will be adequate, provided that the stakeholder has been given adequate time and opportunity to respond.</p> <p>The Guideline has been amended so that the paragraph on page 4 regarding the pre-meeting with Government is as the beginning of section 5.</p>      |
| 36.              | <b>CME</b>         | 5 (3) Stakeholder Engagement  | <p>The Guideline states that:</p> <p><i>"The Department's standard requirement is that all equipment and infrastructure is removed and/or appropriately disposed."</i></p> <p>This statement does accurately reflect the application of this standard requirement for surface equipment and infrastructure only (not underground / buried infrastructure).</p> <p>CME recommends rewording to "The Department's standard requirement is that all <u>surface</u> equipment and infrastructure is removed and/or appropriately disposed."</p> <p>The Guideline lacks clarity regarding the process and timing of "formal transfer" of infrastructure to a third party.</p> <p>Clarity is required as to whether "formal transfer" equates to "legal transfer" of a relevant lands interest containing the retained infrastructure.</p> <p>Furthermore, the logical sequencing of these "formal transfers" requires reconsideration. The "transfer" of land interests holding retained infrastructure cannot be undertaken when relinquishment has not yet occurred, and so formal evidence of this "transfer" is unable to be provided in a Mine Closure Completion Report as a prerequisite to relinquishment.</p> <p>CME recommends the Guideline be revised to clarify the context of the term "formal transfer" of infrastructure to a third party.</p> <p>CME recommends the Guideline be revised to provide clarity regarding the process and timing of "formal transfer" of infrastructure to a third party.</p> | <p>Comment Noted. The department has removed the statement related to appropriate disposal of equipment, as this should already be covered in the site's rehabilitation and closure actions in the approved MCP.</p> <p>The department has removed "formal" from the statements regarding formal transfer. This is intended to provide flexibility in the format of this information.</p> |
| 37.              | <b>Beiha Yanez</b> | 5. (3) Stakeholder Engagement | <p>It is expected that prior to submission of the Mine Closure Completion Report, appropriate engagement has been undertaken to determine the acceptability of rehabilitation to the underlying land users, land managers or other relevant stakeholders <b>including whether completion criteria have been achieved</b>. Any negotiated commitments or agreement with agencies or stakeholders in relation to closure, <b>including those around future / post-mining use of the land</b>, should be outlined in the Mine Closure Completion Report.</p> <p>Copies of any documentation relating to <del>may</del> must <b>as a minimum</b> include providing an updated stakeholder engagement register. Stakeholder consultation <del>may</del> <b>must</b> be included in the Mine Closure Completion Report as appendices. This</p>  | Requiring the stakeholders to determine whether completion criteria has been achieved can lead to highly subjective conclusions to be reached. Additionally, the department cannot guarantee that each stakeholder will have all of the required information to make a fully informed decision.   |

| General Comments |             |                               |   |   |
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| Ref #            | Stakeholder | Section                       | Comment   | DMIRS Response/Action   |
| 38.              | DBCA        | 5. (3) Stakeholder Engagement | <p><b>Recommendation 1:</b> <i>that the draft guideline includes the requirement for 'documented agreement' on the acceptability of rehabilitation with the post-mining land manager as a part of the Mine Closure Completion Report, particularly for mines on public reserve land which have been agreed to by the Minister/s responsible for the land.</i></p> <p><b>Discussion:</b> The current wording of the guideline suggests that 'adequate consultation and agreement with key stakeholders and post-mining' (page 4) should be demonstrated in the tenement holder's closure completion report. The guideline suggests that the land manager's agreement to the acceptability of rehabilitation is only one of a range of considerations within the closure approval process and there is no apparent requirement for a formally documented agreement to be provided to Government acceptance of the report.</p> <p>Noting that mining on reserves managed under the <i>Conservation and Land Management Act 1984</i> (CALM Act) is subject to Ministerial consent and formal consultation with the Minister for Environment and consultation with the vesting body, the Conservation and Parks Commission, the Department of Biodiversity, Conservation and Attractions (DBCA) considers formally documented agreement is necessary to verify that the post mining land use and associated outcomes agreed either at, or subsequent to, the mining consent stage have been met. A formal process of this nature would also assist in providing for an efficient and formally documented consultation process and a post mining land use and condition outcome acceptable to the State of Western Australia and the community.</p> <p><b>Recommendation 2:</b> <i>That further information is included in the draft guideline around the level of stakeholder engagement that is required.</i></p> <p><b>Discussion:</b> DBCA, on behalf of the responsible Minister and vesting authorities for CALM Act reserve land, is a key stakeholder in mining projects that occur on this land and is also a key stakeholder in the case of freehold and former pastoral lease land managed by the department. Industry engagement with DBCA in relation to mine closure on land managed by the department is highly variable and often requires follow up by DBCA and/or diligence from the Department of Mines, Industry Regulation and Safety (DMIRS) to confirm that consultation has occurred. In some circumstances, DBCA may only require information and staged updates on closure.</p> <p>DBCA notes that the guideline indicates 'The level of stakeholder engagement will be dependent on the specific post mining land use and completion criteria relevant to each site' (page 5). On this basis, DBCA considers that it would be appropriate for the guideline to identify the level of stakeholder consultation required (and provide relevant examples) to ensure that tenement holders are aware of the situations in which detailed discussions (meetings) and/or formalised agreements with stakeholders are required. In addition, it would be useful to highlight that in some areas there may be multiple relevant stakeholders and particular stakeholder views (such as those of the underlying landowners or managers) may be of more relevance or more highly weighted during consultation than others. Specifically, further information included within this section would assist tenement holders in delivering effective consultation and summarising/ documenting this consultation for DMIRS' acceptance.</p> <p><b>Recommendation 3:</b> <i>That further information is provided in the guidance in relation to circumstances where the rehabilitation is not found to be acceptable to the landowner/manager.</i></p> <p>Further information is required within the guideline to address specific circumstances where the rehabilitation outcome and/or proposed post mining land use is at variance to that agreed at the mine approval stage and/or is unacceptable to key stakeholders. In this circumstance, it would be appropriate for the guideline to explain how DMIRS as the regulator would navigate such a situation to identify to the tenement holder solutions or options for achieving an acceptable closure outcome and final land use, including addressing potential post closure management requirements at the site.</p> | <p>It is DMIRS' expectation that any discussions regarding the post-mining land use and residual risks would be discussed with stakeholders prior to a Closure Completion Report being submitted for review. These matters should be addressed during the development and review of a mine closure plan. Where there are interactions with DBCA-managed lands, DBCA will be requested to provide advice on the mine closure plan.</p> <p>The department clarifies that the purpose of closure completion is to meet the obligations of an approved mine closure plan. Mine closure plans already require the proponent to detail the stakeholder consultation that has been undertaken with regards to closure, including that with post-mining land owners. The inclusion of these details in this guideline would be unnecessary duplication.</p> |

| General Comments |                    |   |  |  |
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| 39.              | <b>CME</b>         | 5. (4) Post-Mining Land Use                     | <p>The Guideline does not adequately consider the timeline of closure requirements. The requirements to demonstrate the post-mining land use having been achieved prior to lodgement of the Mine Completion Closure Report is unachievable in many cases, particularly for alternative land uses which require complete cessation of all mine closure / monitoring activity and relinquishment of the mining tenure before they can occur.</p> <p>Proponents are responsible for identifying post-mining land uses and delivering outcomes that enable those land uses. The post-mining landowner and/or land manager is responsible for the appropriate tenure and actual use of the land post relinquishment.</p> <p>CME recommends the Guideline be reworded to "This section may discuss potential post-mining land uses that align with the completion criteria; however, it should be noted that appropriate tenure and actual use of the post-mining land will remain the responsibility of the post-mining landowner and/or land manager."</p>   | The evidence to be provided in support of a mine closure completion report is linked to the details of the monitoring program included in a mine closure plan. It is intended that the evidence would demonstrate that completion criteria in an approved mine closure plan (which were developed with consideration of a particular post-mining land use) have been met.  |
| 40.              | <b>CME</b>         | 5. (5) Closure Outcomes and Completion Criteria | <p>The Guideline lacks clarity regarding how evidence is to be provided. It is unclear whether evidence must be provided in full as appendices, or whether the provision of a Verification Report from an auditor who has assessed the evidence is sufficient.</p> <p>CME recommends the Guideline be revised to provide further clarity as to how supporting evidence / information is required to be provided.</p> <p>CME recommends the Guideline be revised to clarify how an auditor's Verification Report is to be considered in the context the provision of supporting evidence.</p>   | The department does not wish to detail the evidence required in order to afford the proponent the flexibility to provide evidence in the form that is most applicable to nature and scale of the project. The evidence provided should be linked to the monitoring program described in the approved mine closure plan.  |
| 41.              | <b>Iluka</b>       | 5. (5) Closure Outcomes and Completion Criteria | <p>Completion Reports should be assessed based on meeting the closure obligations detailed in the approved Mine Closure Plan.</p> <p>It should be noted that sites with Closure Plans that were approved pre-2020, may not explicitly address DMIRS closure objectives/outcomes in the manner required by current guidelines. Nevertheless, as pre-2020 Closure Plans were approved using guidelines current at that time, and used a risk-based approach, they should still form the basis on which the Completion Report is prepared and assessed.</p> <p>The key concern here is the actual/perceived risk of 'changing goal posts' and how these Guidelines apply during the transitional period until all Closure Plans are prepared in accordance with the 2020 guidelines.</p> <p>The guidelines could be strengthened with the incorporation of the considerations/ steps to take should part of a completion criteria not be met (i.e. what is the residual risk to the environment of a completion criteria not being met?).</p> <p>An update to a closure plan at this stage to revise completion criteria on this basis would be unnecessary and inefficient for both industry and the department.</p> | <p>DMIRS confirms that closure outcomes have always been included in Mine Closure Plans and it has always been the intention that Completion Reports will be assessed on their ability to meet these closure outcomes.</p> <p>Where closure completion has not been met, it is up to the proponent to justify to DMIRS why this is the case. DMIRS will use the information at their disposal to make a decision as to whether it is acceptable.</p> |
| 42.              | <b>Beiha Yanez</b> | 5. (5) Closure outcomes and completion criteria | <p>Definition of appropriately qualified person required.</p> <p>Could add further wording on to 'Summary and discussion of monitoring results' e.g. <i>Summary and discussion of monitoring results with a minimum XX years of monitoring data or similar</i></p> <p>Could consider the addition of an extra dot point, e.g. (if relevant) details of whether any completion criteria initially agreed upon were later understood to be unachievable and what data review and technical investigations were required to inform new standards for redefinition of completion criteria.</p>   | <p>Comment noted. Reference to appropriately qualified person has now been removed.</p> <p>The evidence to be provided in support of a mine closure completion report is linked to the details of the monitoring program included in a mine closure plan.</p> <p>The reviewing and amending of completion criteria is covered under the department's mine closure plan process.</p>  |

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| 43.              | Ian Hollingsworth | 5. (5) Closure outcomes and completion criteria | <p>Neither in this draft guideline, or the statutory mine closure planning guideline, are design standards or acceptable baseline closure outcomes identified. I think the lack of defined criteria degrades the value of closure planning for industry and the public. The completion process is framed instead on diverse monitoring activity, which may not resolve.</p> <p>A baseline objective would be, in my opinion, restoring natural environmental processes, e.g. water/solute balance, erosion/sedimentation, dominant species/land use. Frame stakeholder consultation on how far operations can move from a restoration approach to addressing community values.</p> <p>Completion reporting needs to focus on whether closure design criteria have been achieved and the statistical confidence in the results.</p>   | Comments noted. This information is more appropriate to be considered as part of a review of the Statutory Guidelines for Mine Closure Plans and Mine Closure Plan Guidance. These documents are related to the development and ongoing review of a mine closure plan.   |
| 44.              | Beiha Yanez       | 5. (6) Determination of post closure risks      | <p>This section should also include information on or evidence of stakeholder acceptability, if and where relevant, of any residual risk as well as estimated costs if the company/tenement holder is still responsible for ongoing monitoring or remedial/management activities.</p> <p>'An assessment of the remaining residual risks' should also include:</p> <ul style="list-style-type: none"> <li>o An analysis of how the company/tenement holder has determined what an acceptable risk threshold is; and</li> <li>o Information on how the remaining residual risks will be closed out and/or addressed, preferably with a schedule/timeline of specific actions for each risk with accompanying responsibilities.</li> </ul>  | Section 6 – Determination of Post Closure Risks has been revised and amended to state that “the assessment should consider whether ongoing monitoring or maintenance activities are required to effectively manage the residual risks, how long the activities will be required and who will be responsible for implementation of the activities”. With respect to residual risk, analysis of residual risk will be based on the risk assessment framework used by the proponent in their Mine Closure Plan and the department will determine what is acceptable on a case-by-case basis.                                  |
| 45.              | Iluka             | 5. (6) Determination of post closure risks      | <p>Determination of the residual risk for each environmental factor, following the assessment of that factor allows the Completion Report to flow such that each environmental aspect is considered in its entirety.</p> <p>Flexibility should be provided in the structure of the report.</p>   | The Guideline has been amended and a diagram included to provide greater clarity on how this Guideline fits into the life of mine process.   |
| 46.              | DBCA              | 5. (6) Determination of post closure risks      | <p><b>Recommendation 4:</b> <i>That the draft guideline references the role of the Minister for Mines and other relevant Ministers responsible for reserve lands where reconsideration of proposed changes to post mining land uses and residual closure outcomes and risks is required.</i></p> <p><b>Discussion:</b> Where mining activities have occurred on reserved lands and DMIRS is making a decision as the regulator in regard to the post closure residual risks, these decisions should be considered in consultation/ concurrence with the Minister responsible for reserve lands (i.e. Minister for Environment where the reserves are managed under the CALM Act).</p> <p>For CALM Act reserve land, the Minister for Environment has provided their recommendations or concurrence for consent to the mining activities during the initial approval of the mining activity, based on documentation including mining proposals and mine closure plans. Where this process has identified the post mining land use and closure outcomes (including any post closure risks) and the proposed mining footprint and associated outcomes at the time of closure differ from those originally considered by the Minister for Environment, these will need to be appropriately considered and, in some cases, further formal recommendation or concurrence provided.</p> | Any decisions regarding activities on reserved lands will be dealt with through the section 23 and 24 process under the Mining Act, rather than through the mine closure completion report. It is DMIRS' expectation that any discussions regarding the post-mining land use and residual risks would be discussed with stakeholders prior to a Closure Completion Report being submitted for review. These matters should be addressed during the development and review of a mine closure plan. Where there are interactions with DBCA-managed lands, DBCA will be requested to provide advice on the mine closure plan. |



| General Comments |             |                |   |   |
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| 47.              | AMEC        | Examples       | <p>Industry would welcome the provision of examples from the Department, to guide their applications. The provision of such examples would provide more clarity into the decision-making processes of regulators, and the information that is necessary to support these decisions and reduce the rate of requests for further information.</p> <p>To reduce this uncertainty and further requests for information which creates delays for industry, it is recommended that clear guidance documents and procedures, supported by examples of what the regulator considers to be a 'good' application, be readily available to project proponents.</p> <p>Additionally, the inclusion of a glossary is supported. However, it should be as detailed as possible, to allow both experienced and less-experienced tenement holders to meet obligations and requirements without further requests for information. It is recommended that the glossary is amended to include "remedial activities", a requirement under 5. Closure outcomes and completion criteria.</p> <p>The provision of these examples will remove the need for informal request from tenement holders for DMIRS to confirm they meet the requirements of a Mine Closure Completion Report, prior to submitting it. While informal contact and access to regulators is welcomed, where good quality examples are provided, they can be followed by Industry.</p> | <p>Comments noted and the department acknowledges that examples are a valuable tool. This is something the department will look to address in the future once the process has been implemented for a sufficient period of time to provide a variety of examples.</p> <p>The document has been updated to state: <i>"Description of any maintenance and activities that have been undertaken in response to not meeting agreed targets (inclusive of an explanation as to how these were effective"</i>.</p> |
| 48.              | AMEC        | Timeframes     | <p>It is also important that there is a clear and consistent approach to the screening and assessment of industry's applications that meets transparent, clearly communicated timeframes. Transparent timeframes and decision making provide regulatory confidence required by project proponents and investors.</p> <p>The identification of timeframes in this guideline would aid the proponent interpret the investment necessary in time and cost to achieve the desired closure.</p>  | <p>Procedural aspects will be considered during future reviews of the DMIRS <a href="#">Environmental Applications Administrative Procedures</a>.</p>   |
| 49.              | AMEC        | Final Comments | <p>AMEC continues to welcome opportunities to engage with the Department as regulatory reforms are undertaken.</p> <p>Through this process we consider there are opportunities to increase efficiency across business and Government, as Western Australia's minerals sector continues to experience heightened demand following recent successful discoveries.</p> <p>As the next phase of reforms continues, we request ongoing consultation with DMIRS and other relevant agencies to ensure industry has a sound voice in the development of new regulatory models.</p>   | <p>Comments noted.</p>  |

Government of Western Australia

**Department of Mines, Industry Regulation  
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