

# Administration of Mine Closure Plans



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Department of Mines and Petroleum

The Department of Mines and Petroleum and the Environmental Protection Authority have jointly released Guidelines for Preparing Mine Closure Plans (“the Guidelines”). The Guidelines set out the level of information required in Mine Closure Plans, however, interested stakeholders have also requested more detailed information from the department on how it will implement the new Guidelines. Therefore the department has prepared this information sheet to provide additional information through Frequently Asked Questions.

## Frequently Asked Questions

### 1. Do agencies have adequate resources to process Mine Closure Plans timely, particularly plan revisions?

The intention is that if Mine Closure Plans are prepared to meet guidelines' requirements then it should reduce the assessment workload and speed up both DMP and the EPA approval processes.

Additional funding has been approved and will be provided to DMP to ensure that the DMP can process all Mine Closure Plans (including reviewed plans), within the committed timeframe, as provided in the answer to question 11 below.

### 2. Will the same level of information be required in a Mine Closure Plan, irrespective of the life span of a project?

No. The level of information required at the project approval stage varies depending on the life span of a mine (e.g. a short term, medium term or long term project) and the level of risk associated with key closure issues. The detail should increase with time (approaching closure) and the level of risk. Table 1 in Section 3 of the guidelines provides a general overview of the level of information required for different types of projects.

For short term projects (up to 10 years), due to the relatively short time before closure, DMP and the EPA expect that the Mine Closure Plan submitted at the project approval stage will provide a more detailed level of information on final closure, including specific information on final landforms and rehabilitation, plant and infrastructure decommissioning, and closure monitoring and maintenance. For longer term projects (more than 10 years), less detailed information on the final closure may be required at the project approval stage (e.g. indicative targets or closure outcomes). However more detailed information may be required for longer-term projects where there is a high level of environmental risk.

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### 3. How much information will be required in a reviewed Mine Closure Plan?

The review of Mine Closure Plans does not necessarily require a large rework of the original or previous Plans unless extensive changes have occurred, but it does need to provide a confirmation of the current status of closure planning (e.g. incorporating new data or closure related changes) and reflect the continual nature of the closure work planning and progress.

### 4. Does every Mining Proposal need a Mine Closure Plan?

All Mining Proposals for new projects submitted on or after 1 July 2011 will need to be accompanied by a separate Mine Closure Plan.

Mining Proposals associated with existing mine sites can vary significantly in the scale of works proposed, and therefore the level of information on the rehabilitation and closure will also vary. Any substantial change to a mining project regulated under the *Mining Act 1978* will require a new Mining Proposal to be submitted to DMP for approval. Proposals for major changes to the approved mining operations and/or changes to post-mining land use(s) and closure objective(s) will need to include a separate Mine Closure Plan. The Mining Proposal will be subject to the same approval requirements as those for a new mining operation or project. If the new Mining Proposal constitutes changes to a proposal approved under Part IV of the *Environmental Protection Act 1986*, the changes must also be approved in accordance with processes and procedures under that Act.

Minor changes to an approved mining operation that do not result in any significant increase in the overall environmental impacts of the approved mining operation or significant changes to post-mining land use(s) and closure objective(s), as determined by the department, need to include details on rehabilitation and closure and also reference the changes to be included in the next review of the site's Mine Closure Plan. If the proponent is unsure as to whether the proposed changes are of a major or minor nature they should contact their relevant Mineral Field officer or Minerals Manager at the department for advice.

For small mining operations, a Mine Closure Plan pro forma has been developed for these operations, and the forms are made available to operators where relevant. A pdf copy of the pro forma will be posted on DMP website for information only (not for use). Operators of small mining operations should contact their relevant Mineral Field officer for more guidance.

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## 5. Do Mining Proposals for existing sites require a Mine Closure Plan for the proposed change or for the entire existing operation?

A Mine Closure Plan submitted to DMP as part of a Mining Proposal application, must relate to that particular mining proposal or, where practicable, can be prepared for the whole site.

A reviewed Mine Closure Plan submitted to DMP must be prepared for the whole site.

Where a mining proposal is subject to assessment by the EPA, the Mine Closure Plan should cover the whole footprint of the proposal. Where a proposal is an extension to an existing approved mine project, it is preferable that the closure plan covers the whole site where practicable.

## 6. How can the potential for any duplication in the requirement for Mine Closure Plan from DMP and EPA be minimized?

From the 1 July 2011, the EPA will generally not assess mine closure as part of its environmental impact assessment of mining proposals under the *Environmental Protection Act 1986*, where they are subject to the *Mining Act 1978*. The EPA will only assess mine closure in these circumstances if it considers there are particular issues which pose a high environmental risk. The EPA would consult with DMP before making any such decision.

For mining projects not subject to the *Mining Act 1978* (such as pre 1899 title or minerals-to-owner tenure, Hampton locations or State Agreement Act projects) the EPA will normally assess mine closure as part of its EIA process. As a matter of course the EPA will consult with DMP on these assessments.

Where the EPA assesses mine closure, an approval condition will normally be applied under the *Environmental Protection Act 1986*, requiring a Mine Closure Plan to be prepared in accordance with the guidelines. Where it is considered that regulatory efficiencies would be gained, compliance monitoring of these conditions may be delegated to DMP. This would assist in achieving consistency of application of the guidelines, and minimise the potential for any duplication.

## 7. Can I have one Mine Closure Plan for EPA and DMP?

Yes. An up to date Mine Closure Plan prepared in accordance with the guidelines will meet both DMP and the EPA requirements.

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At the approval stage, if there is a project delay, such as more than a year has elapsed between approval of the EIA document and submission of a Mining Proposal to the department, or if there is a change to the document assessed by the EPA, then DMP will expect that the Mine Closure Plan submitted as part of the Mining Proposal, is updated to ensure currency of information/data.

## **8. Will the EPA and DMP undertake parallel assessment of Mine Closure Plans?**

Yes. The EPA and DMP will undertake parallel assessment of Mine Closure Plans if this is requested by the proponent when their project requires approvals under Part IV of the *Environmental Protection Act 1986* and *Mining Act 1978* (note answer to Question 6). The proponent will need to provide the appropriate level of detail at the approvals stage to both EPA and DMP to enable parallel assessment to be undertaken.

Parallel assessment will occur in one of the two following instances:

- a) Where the EPA forwards a copy of the proposed Mine Closure Plan (as part of the Part IV consultation process) to the department, the department will undertake an assessment of the Mine Closure Plan and will advise the EPA as to whether the Mine Closure Plan is structurally adequate for DMP to approve, or whether there are any deficiencies in detail which the department will require the proponent to address before DMP could approve the document.
- b) Where the Proponent submits the Mining Proposal to the department at the time when the same proposal is being assessed by the EPA, the department will be able to assess the Mine Closure Plan and the Mining Proposal and provide advice to the EPA (and proponent) of the likely decision (to approve or otherwise) of the Mine Closure Plan once the EPA process has been completed.

## **9. How are matters escalated within DMP when disputes arise?**

Differences of opinion or interpretation between officers, proponents and agency representatives may occur when undertaking environmental assessments. These differences of opinion can occur for a variety of reasons, and it is the responsibility of all parties to ensure that the specifics of any difference are clearly understood.

While the majority of assessments are expected to be worked out at the officer level, the need may arise for the Assessing Officer to advise their area

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Manager who may need to consult with the Director (in order, as the respective decision-makers) if any problems arise.

The Department expects that proponents, other agency representatives, or DMP Assessing Officers will escalate matters to the area Manager or the Director when:

- a) the Assessing Officer is of the opinion that the Mine Closure Plan is deficient and the proponent has been provided with at least two formal opportunities to address the deficiencies, or
- b) after reasonable attempts, the Assessing Officer has been unable to adequately resolve differences in opinion between relevant agencies consulted on the Mine Closure Plan.

## 10. How will existing mine sites be treated?

For mining operations that have a Mining Proposal and/or a Notice of Intent (NOI) approved under the *Mining Act 1978* prior to 1 July 2011, the department intends to require mine closure plans to be reviewed in accordance with the guidelines and submitted to the department by 30 June 2014.

To achieve this, the department will schedule the introduction of Mine Closure Plans for existing sites to ensure that there is a reasonably consistent workload for the industry and agency, thereby delivering consistent assessment timeframes. The department will base the prioritisation of MCP submission on a project's proximity to closure, how well prepared the site is for closure and how well environmental issues are being managed.

This scheduling will be implemented by the department by notifying tenement holders in mid-late 2011, specifying when their Mine Closure Plan is due. Tenement holders will be provided with at least six months notice of the date in which they are required to submit their Mine Closure Plans. This requirement will be appropriately stipulated in a tenement condition (provided under section 84 of the *Mining Act 1978*). The answer to Question 3 provides examples of the likely wording of the tenement conditions which will be applied.

Before preparing a Mine Closure Plan for an existing site or operation with approved commitments and/or conditions that contain specific closure outcomes, landform design parameters (e.g. waste dump heights, bench and

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berm distances) or rehabilitation criteria, proponents/operators are strongly encouraged to contact the relevant DMP environmental officers for advice on application of the guidelines to these sites /operations that will achieve the best practicable closure outcomes.

## 11. What is the timeframe for DMP to assess Mine Closure Plans?

The department's target timeframe for the assessment of Mine Closure Plans which accompany Mining Proposals is that 80% are determined (approved or rejected) within 30 working days.

For Mine Closure Plans not submitted with a Mining Proposal (i.e. a reviewed Mine Closure Plan or the first Mine Closure Plan for an existing site) the department will be trialing a target timeframe of 80% within 60 working days during 2011/12.

## 12. What do the new guidelines mean for those sites not administered under the *Mining Act 1978*?

New mining projects not subject to the *Mining Act 1978* (such as Pre-1899 title or minerals-to-owner tenure, Hampton locations or the pre-1978 State Agreement Act projects), usually undergo formal assessment by the EPA under Part IV of the *Environmental Protection Act 1986*, and the EPA is expected to require a Mine Closure Plan to be prepared according to the guidelines, as part of the EIA documentation.

For existing operations that are not administered under the *Mining Act 1978* and mine closure is not regulated under the *Environmental Protection Act 1986*, operators are expected to liaise with the appropriate regulator(s) about requirements for mine closure planning, and are encouraged to have in place mine closure planning and implementation consistent with these guidelines.

## 13. What will the tenement conditions look like?

Once a Mine Closure Plan is approved, the title of the Mine Closure Plan will be added to the schedule of tenement conditions in the same manner a title of a Mining Proposal is added, i.e.:

*The construction, operation and closure of the project and measures to protect the environment to be carried out in accordance with the document titled:*

*"Title of Mine Closure Plan" (Reg. Id. XXXXX) dated [date], and signed by [name] and retained on Department of Mines and Petroleum*

The tenement conditions will also include a specific requirement for review of

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the Mine Closure Plan, such as:

*The lessee must review the approved Mine Closure Plan by [date] to ensure that the Mine Closure Plan is in accordance with the Mine Closure Plan Guidelines prepared by the Department of Mines and Petroleum. The lessee must submit the revised Mine Closure Plan to the Director Environment by [date].*

## **14. Under what circumstances would the department deviate from the default three years for the review of a Mine Closure Plan?**

The recommendation on an alternative review period will be made by the relevant Regional Minerals Manager and will result in a specific condition being placed on the relevant tenements specifying the date by which the revised Mine Closure Plan must be submitted to the department.

Alternative review periods for reviews (a longer or shorter review period) may be recommended:

- when there is a change in the operational status of the site (e.g. enters care and maintenance)
- when the mine site has a very long or very short mine life
- in response to performance of the tenement holder in mine closure or progressive rehabilitation
- depending upon the certainty related to the proposed rehabilitation methods, and/or
- there are relevant implementation conditions already imposed under Part IV of *Environmental Protection Act 1986*.

## **15. What will happen to Mine Closure Plans that do not meet the requirements of *the guidelines*?**

Usually, the tenement holder will be given two formal opportunities to address deficiencies in submitted Mine Closure Plans. If, in the opinion of the Assessing Officer, the Mine Closure Plan remains deficient, then they will make a recommendation to the Regional Minerals Manager to reject the Mine Closure Plan.

## **16. Can Mine Closure Plans be submitted on-line?**

The department is currently introducing the functionality to allow Mine Closure Plans to be submitted on-line, which is expected to be available in early 2012. Until this occurs, Mine Closure Plans which accompany Mining Proposals can be submitted on-line as a separate attached document. For Mine Closure Plans which are not accompanied with Mining Proposals, such

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as those developed for existing sites, they will need to be submitted as a hard copy and include an electronic copy on a CD.

**17. What is the difference between mine closure costing in the Mine Closure Plan Guidelines and mining securities (or environmental bonds)?**

At this stage, cost estimates conducted for the purpose of demonstrating financial provisioning for Mine Closure Plans are not intended to be applied in the calculation of mining securities. The financial provisioning requirements in Mine Closure Plans are for tenement holders to demonstrate that they will have funds available in the future to address their financial obligations for mine rehabilitation.

Should closure cost estimates be required for the calculation of mining securities in the future, the guidelines may need to be revised to remove any duplication resulting from the new requirement.

**18. What does “a minimum of ten year period for post-closure performance monitoring” mean?**

Post closure performance monitoring refers to the monitoring of a landform (such as a waste dump or a tailings storage facility) or a disturbed area after it has been rehabilitated and closed (no longer needed for any mining operational requirement). This monitoring is necessary to demonstrate to regulators that the completion criteria for each of these features (land forms or disturbed areas) have been met. It is required to provide a high level of certainty to the regulators that the stability and/or revegetation of each constructed landform and disturbed area located on a tenement will continue to meet the completion criteria after the tenement is relinquished.

During this period, if monitoring shows that the completion criteria associated with a feature or domain are unlikely to be met, companies will usually be required to carry out remediation action until further monitoring demonstrates that the completion criteria for each of these features (land forms or disturbed areas) have been met. Once progressive rehabilitation has been successful with stabilization and revegetation meeting the completion criteria, the post closure monitoring period may be less than 10 years in duration but unlikely to be less than 5 years for a rehabilitated feature or domain. If a feature is considered a high risk (such as those associated with acid mine drainage or hazardous materials), the post closure monitoring period may be much longer than 10 years.

As a general rule, if progressive rehabilitation can be successfully

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implemented, the post closure monitoring period required before tenement relinquishment may be able to be shortened.

## **19. Is progressive rehabilitation always feasible or appropriate?**

There are always opportunities to progressively rehabilitate some but perhaps not all disturbed land areas and this is strongly encouraged. Where progressive rehabilitation is not feasible/appropriate for a specific mine feature (e.g. waste dump) on a specific mine site, this should be clearly stated and justified in the MCP.

## **20. How will “historical” disturbances be treated, given that much of the information required for an 'adequate' closure plan is not readily available and will be cost prohibitive to attain?**

The guidelines do not apply to rehabilitation or closure of historical disturbances unless there was a transfer of legal liability through either the tenement transfer process or through a voluntary commitment written in approved NOI/MP documents. For these historical disturbances, while the closure principles and the broad closure objectives in the guidelines will apply, DMP acknowledges that the standard of rehabilitation for an existing site with historical disturbances may be different to that for a new site and will need to be considered on a case by case basis, taking into account the site-specific constraints (and opportunities if possible), such as unavailability of sufficient top soil or competent materials, presence of dispersive materials or AMD and the previously approved/agreed closure outcomes with DMP etc.

Proponents/operators are strongly encouraged to contact the relevant DMP environmental officers or regional managers for advice on the application of the guidelines to the historical disturbances that will achieve the best practicable closure outcomes.

## **21. What will be required for an 'adequate' Mine Closure Plan for features and domains which have been rehabilitated but not yet signed off by DMP?**

For these sites already rehabilitated, DMP acknowledges that while the closure principles and the broad closure objectives in the guidelines will apply, the standard of rehabilitation has not been as high in the past. The department is also aware that the level of information available (about the rehabilitation undertaken) may not be as comprehensive as would be expected today.

To address this issue, the department will be developing specific procedures to improve the level of transparency of assessing completed rehabilitation where the rehabilitation performance (or the information regarding the

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rehabilitation) does not meet today's expectation. The department will develop the procedures using a risk assessment approach to ensure that a pragmatic resolution to these sites is possible, specifically where the tenement holder has taken all reasonable and practicable steps to achieved good rehabilitation standards in accordance with their approval condition.