

FACT SHEET

New standard rehabilitation conditions on mining leases

JULY 2021

The NSW Government has introduced new standard rehabilitation and reporting conditions on mining leases to set clear, achievable and enforceable requirements for rehabilitation across mine sites in NSW. The reforms introduce regulatory tools and set clear requirements for rehabilitation throughout a mine's life, from the mine design stage through to closure.

Amendment to Mining Regulation 2016

To implement these changes, the Mining Amendment (Standard Conditions of Mining Leases – Rehabilitation) Regulation 2021 introduces new standard mining lease conditions for mine rehabilitation. These new conditions will replace existing rehabilitation conditions on mining leases. Transitional arrangements are in place for existing mining leases to allow lease holders to prepare for the new requirements.

Progressive rehabilitation, a rehabilitation risk assessment, annual reporting and detailed rehabilitation management planning will be required through the new mining lease conditions.

Lease holders will need to:

- prepare rehabilitation risk assessments and implement measures to eliminate, minimise or mitigate the risks to rehabilitation
- develop and seek approval from the Secretary of rehabilitation objectives, rehabilitation completion criteria and, for large mines¹, a final landform and rehabilitation plan², collectively referred to as "rehabilitation outcome documents"

¹ A large mine is a mine the subject of one or more mining leases, the carrying out of activities of at least one of which requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

² This is a spatial depiction of the final landform and final land use.

- develop, implement and publish a rehabilitation management plan (for large mines only) that manages risks to rehabilitation and sets out the approach for how rehabilitation obligations are fulfilled
- develop and implement a forward program that provides a schedule of mining activities and the spatial progression of rehabilitation activities for the next three years (which demonstrates rehabilitation is occurring as soon as reasonably practicable following disturbance)
- undertake progressive rehabilitation over the life of the mine and submit an annual rehabilitation report and forward program to the Secretary, demonstrating how rehabilitation is progressing, including how it is trending towards meeting the final land uses
- achieve the approved final land use for the mining area, as set out in the rehabilitation objectives, rehabilitation completion criteria and final landform and rehabilitation plan (for large mines)
- create and maintain records of all actions taken to demonstrate compliance with the mining lease conditions
- provide a written report to the Minister within 7 days after becoming aware of any non-compliances with the conditions of a mining lease, the requirements of the *Mining Act 1992* or the regulations
- nominate a contact person with whom the Secretary can communicate in relation to the mining leases
- give written notice to the Secretary within 10 days of making an application for a development³ consent (or modification of a development consent) that relates to the mining area.

Documents and spatial plans will need to be prepared in the ‘form and way’ approved by the Secretary and published on our website. In some cases, the documents will need to be submitted to the Secretary.

The Resources Regulator’s mine rehabilitation portal will collect geographical information system (GIS) spatial data about rehabilitation for large mining projects (i.e. the final landform and rehabilitation plan data, as well as rehabilitation data submitted as part of the annual rehabilitation report and forward

³ Does not apply if the development is State significant development under the *Environmental Planning and Assessment Act 1979*.

program). This online portal will help mining companies and the Regulator accurately record and track areas of disturbance and rehabilitation progress across individual sites.

Guidelines are also available on our website to help industry comply with the new conditions and requirements.

These changes will introduce strong regulatory systems to ensure that progressive rehabilitation occurs throughout the life of the mine and that sustainable final land use outcomes are achieved.

Refer to the FAQs for new standard rehabilitation conditions on mining leases for more detailed information on the changes.

Commencement and transitional arrangements

The Regulation commenced on 2 July 2021. Transitional arrangements are in place for existing mining leases to allow lease holders to prepare for the new requirements. The conditions and new requirements in the regulation are intended to apply to all mining leases at the following times:

- for existing large mines – 2 July 2022 (12 months from the commencement of the regulation)
- for small existing mines – 2 July 2023 (24 months from the commencement of the regulation)
- for any other mining lease granted from 2 July 2021, on the date the lease is granted.

The FAQs for new standard rehabilitation conditions on mining leases provides more details about the transitional arrangements.

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Summary of key obligations for lease holders under the new rehabilitation conditions

GENERAL REQUIREMENTS

- Prevent or minimise harm to the environment
- Create and maintain records demonstrating compliance
- Report to Secretary on non-compliance
- Notify Secretary of lodgement of application for, or to modify, non-SSD development consent relating to mining area
- Provide Secretary with details of nominated contact person

REQUIREMENTS BEFORE FIRST DISTURBANCE AND ONGOING (or, if first disturbance has already occurred, within 30 days of the commencement date)

- Conduct rehabilitation risk assessment
- Prepare rehabilitation objectives and rehabilitation completion criteria
- Prepare final landform and rehabilitation plan (large mines)
- Prepare and publish / make available rehabilitation management plan (large mines)
- Prepare forward program

REQUIREMENTS AFTER FIRST DISTURBANCE AND ONGOING

- Rehabilitate mining area as soon as reasonably practicable after disturbance
- Implement risk control measures and rehabilitation management plan and maintain risk assessment
- Achieve final land use
- Prepare annual rehabilitation report

KEY

BLUE - All mines

NAVY - Large mines only

TRIGGER: Prior to first disturbance (or within 30 days of commencement if first disturbance has already occurred)



TRIGGER: Within 60 days after the last day of each annual reporting period applying to the mining lease (or as authorised or as directed by the Secretary)

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Prepare and submit **annual rehabilitation report and forward program**