

# Improving mine rehabilitation in NSW - Discussion paper

## Frequently asked questions

November 2017

### What is mine rehabilitation?

- The *Mining Act 1992* defines rehabilitation as the treatment or management of disturbed land or water for the purpose of establishing a safe and stable environment. In practice mining rehabilitation can cover a range of activities, such as demolition of infrastructure, remediation of contaminated land, establishing a final land form and revegetation. Rehabilitation can be carried out both during mining operations and after operations have ended.

### How is mine rehabilitation currently regulated in NSW?

- To develop a major mining project in NSW, a proponent must first apply for a development consent under the *Environmental Planning and Assessment Act 1979*. The consent authority - generally the independent Planning Assessment Commission - evaluates the mine rehabilitation proposal as part of the development application. If the development application is approved, the proponent must construct, operate and rehabilitate the mine in compliance with the conditions of the development consent. Development consent conditions generally contain high level rather than detailed rehabilitation requirements.
- Once development consent has been granted, the proponent must also obtain a mining lease under the *Mining Act 1992*. Mining leases contain detailed, operational requirements for rehabilitation of the site and lodgement of a security deposit. NSW is one of the few jurisdictions which requires a security deposit covering the full cost of rehabilitation.
- The Department of Planning and Environment is the primary regulator of mine rehabilitation in NSW. The Department is responsible for enforcing compliance with both the development consent and mining lease.

### What is the aim of the Discussion Paper Improving Mine Rehabilitation in NSW?

- The Discussion Paper seeks public and industry feedback on proposed improvements to the regulatory framework for rehabilitation of major mining projects.
- A key aim of the proposed improvements is to ensure mine rehabilitation is consistent with leading practice and delivers appropriate social, economic and environmental outcomes for communities.
- Feedback will be used to develop new State-wide policy and actions that provide certainty to industry and the community by clearly setting out Government expectations regarding rehabilitation and closure requirements for all major mining development in NSW.

### Why are reforms to the current regulatory framework for mine rehabilitation needed?

- The NSW Government is committed to ensuring major mining projects use best practice rehabilitation and land can sustain another use once mining operations end.
- Aspects of the current regulatory framework for mine rehabilitation do not meet best practice. For example, the independent Planning Assessment Commission has identified that development applications for major mining projects often do not contain sufficient information on rehabilitation or proposed post-mining land uses and lack rigorous justification. Communities have also highlighted concerns regarding the assessment of final mining voids, including the current lack of criteria to determine the acceptability of a final void or how it will be managed.

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- Reforms are needed to ensure rehabilitation and post mining land uses are properly considered early in mine planning, including the assessment of any final voids, and to improve regulatory coordination at the planning, operational and closure stages of the mine life cycle.

### What types of mines are the reforms intended to apply to?

- The proposed reforms are intended to apply to major mining projects, known as State significant development. The proposals do not apply to mining that is not State significant development, exploration under the *Mining Act 1992*, or petroleum exploration or production.

### What reforms to the current regulatory framework are being proposed?

- The Discussion Paper sets out five proposals to improve the regulation of mine rehabilitation across the assessment, operational and closure stages of the mine life cycle.
- The proposals include:
  - policy principles which set mandatory, best practice standards for all major mining projects. These include requirements for progressive rehabilitation, making rehabilitation information publicly available, and ensuring rehabilitation can sustain the post mining land use. The principles set additional standards for new mining projects, including the requirement that rehabilitation minimises the sterilisation of land and is compatible with surrounding land forms and land uses
  - a policy framework to inform the assessment of final mining voids, where voids will not be considered to be acceptable as part of a new major project unless the proponent can demonstrate that they have met certain criteria
  - requirements for new major projects to consult with the community and provide information on mine design options early in the planning process i.e. as part of the Scoping Report (formerly known as the Preliminary Environmental Assessment)
  - requirements for new major projects to include standard landform and land use rehabilitation objectives in the development application
  - improved regulatory coordination across the assessment, operation and post-closure stages of the mine life cycle.

### What is a “final void”?

- Open cut mining involves the displacement of material to access an underground resource, which often results in the formation of a large pit or “void” where that material has been removed. Where a void is left after mining, it is typically referred to as a “final void”.

### How does the Discussion Paper address final voids?

- The Discussion Paper seeks feedback on the development of a policy framework to inform the assessment of final mining voids, where voids will not be considered to be acceptable as part of a new major project unless the proponent can demonstrate that they have met certain criteria
- The aim of the proposed policy framework is to ensure that the full costs and benefits of final voids are identified and assessed upfront in the planning process and in a transparent manner.

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- Final mining voids that have already been approved as part of a major project's development consent under the *Environmental Planning and Assessment Act 1979* will not be affected by the proposals. The NSW Government is considering these issues separately as part of its review of the *Synoptic Plan: Integrated landscapes for coal mine rehabilitation in the Hunter Valley*.

### How do the proposals in the Discussion Paper relate to the Government's current rehabilitation reforms?

- The NSW Government is committed to ensuring major mining projects use best practice rehabilitation and land can sustain another use once mining operations end.
- In response to the NSW Auditor-General's Report *Performance Audit Mining Rehabilitation Security Deposits* (May 2017), the Government is currently implementing the Rehabilitation Reform Project, which will strengthen operational rehabilitation requirements for existing mining projects in NSW.
- The Rehabilitation Reform Project includes improved rehabilitation reporting requirements, best practice management standards, new tools to collect data and monitor performance and compliance, and enforceable operational objectives and completion criteria.
- The proposals in the Discussion Paper complement the Government's operational reforms by setting State-wide policy principles and introducing new requirements for major mining projects at the planning and assessment phase. The proposals also aim to improve coordination of regulatory requirements across the assessment, operation and post-closure stages of the mine life cycle, by improving consistency of project approvals under both the *Environmental Planning and Assessment Act 1979* and the *Mining Act 1992*.
- More information about the Rehabilitation Reform Project is available:
  - online at [www.resourcesandenergy.nsw.gov.au/miners-and-explorers/programs-and-initiatives/rehabilitation-reform-project](http://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/programs-and-initiatives/rehabilitation-reform-project)
  - by calling the Environmental Sustainability Unit, Division of Resources and Geoscience on 02 4931 6605
  - emailing [minres.environment@industry.nsw.gov.au](mailto:minres.environment@industry.nsw.gov.au)

### Will the proposals affect assessment and approval timeframes for major mining projects?

- The proposals may reduce project assessment and approval timeframes by ensuring that rehabilitation issues are properly addressed early at the application stage. This would help reduce requests for further information and the need for additional work by the proponent during the assessment phase.

### How do the proposals relate to other planning initiatives?

- These proposals complement other planning initiatives such as recent amendments to the *Environmental Planning and Assessment Act 1979*. The reforms will be integrated with the Environmental Impact Assessment Improvement Project.

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### How do I comment on the proposals?

- Submissions on the Discussion Paper will close on 16 February 2018.
- You can view the Discussion Paper online at [planning.nsw.gov.au/minerehabilitation](http://planning.nsw.gov.au/minerehabilitation).
- You can make a submission by:
  - responding online at [planning.nsw.gov.au/minerehabilitation](http://planning.nsw.gov.au/minerehabilitation).
  - by mail to the Director Resources Policy, GPO Box 39, Sydney, NSW 2001

### What happens next?

- All submissions will be reviewed and made public in line with the Department's objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. Before making a submission, please read our privacy statement at [planning.nsw.gov.au/privacy](http://planning.nsw.gov.au/privacy).
- Feedback from public submissions will be used to develop new State-wide policy and actions that provide certainty to industry and the community by clearly setting out Government expectations regarding rehabilitation and closure requirements for all major mining development in NSW.

### Where can I find out more?

- Call 1300 305 695.
- If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au).