

Submission – Improving Mine Rehabilitation in NSW

Discussion Paper

16 February 2018

1. Executive Summary

Yancoal Australia Ltd (Yancoal) recognises that mining is a valid and temporary land use and plans its rehabilitation to provide beneficial, environmentally sustainable and economically viable land use outcomes.

Yancoal understands mine rehabilitation is a critical part of securing the community's confidence in the industry and is proud of its rehabilitation record. Yancoal is committed to best practice mine rehabilitation. It is our view that the proposed reforms will hinder this process, while also creating unnecessary duplication of existing regulatory frameworks in this space.

Any improvements to the regulation of mine rehabilitation in New South Wales (NSW) should create a more predictable and robust process while removing instances of unnecessary duplication and red tape.

Yancoal supports reforms that create regulatory efficiencies and provide certainty to industry, the local community and other stakeholders.

Yancoal believes the proposed reforms to the mine rehabilitation regime will not deliver the NSW Government's stated objective of ensuring major mining projects use best practice rehabilitation so that previously mined land can sustain other uses.

Overall, the proposed reforms contained in the Discussion Paper fail to substantially address the key issues that will encourage innovative solutions to mine rehabilitation and closure. This submission provides an overview of Yancoal's major areas of concern and makes recommendations where the NSW Government should consider further improvements.

Yancoal also supports the recommendations and feedback provided by the NSW Minerals Council in its submission to the Department of Planning and Environment on the Discussion Paper.

2. The NSW Government's approach to mine closure and rehabilitation

The NSW Government needs to decide which agency has ultimate responsibility for regulating mining in this State. Current arrangements - where both the Department of Planning and Environment (DPE) and the Division of Resources and Geoscience (DRG) regulate mine rehabilitation and mine closure - is inefficient from a regulatory perspective. This leads to duplication of approval processes, such as the existing requirement for both a Rehabilitation Management Plan (RMP) as a condition of development consent and a Mining Operations Plan (MOP) as a condition of the mining lease providing a poignant example.

This duplication adds a significant administrative burden on both the relevant agencies and local projects in regional NSW.

Instead, **Yancoal advocates a whole-of-government approach that recognises DRG is in the process of developing and implementing its mine rehabilitation reforms, while DPE's proposal is potentially at odds to - or duplicates - some of these reforms.**

Further, each resources project in regional NSW needs to be assessed on its own merits – a one size fits all approach across the State should not apply. The proposed approach highlights problems with the *Environmental Planning and Assessment Act 1979* (EP&A Act) in regards to mining projects. Specifically, the Act does not recognise the resource may be extracted over a timeframe that is beyond the typical development consent timeframe. This means the rehabilitation and closure plans presented to agencies (and made publicly available on the mine's website) are unable to reflect future extensions to the mine that will most likely change parts of the final landform, potentially including the location of a final void.

3. Community Engagement

Yancoal supports an open and transparent assessment of mining projects. We believe that mine closure and rehabilitation plans must be subject to rigorous assessment, and that integrity mechanisms must be in place to ensure sound process and outcomes.

Mines are typically long term, dynamic operations. It is impossible to predict community sentiments for the future of a mine site when the end of a mine's life is usually many years away. Indeed, it may disadvantage both the community and the mine owner to lock in to a rehabilitation strategy that precludes future opportunities.

Industry is required to make all necessary approvals and licences, environmental monitoring reports, management plans, and other key regulatory information available on their websites. Hence information about rehabilitation and its progression is already freely available to the public.

This information is provided to inform the community on how the mine is meeting its development consent obligations, including rehabilitation commitments and requirement. It is Yancoal's position that relevant agencies are charged with ensuring each mine complies with its consent and mining lease conditions, not the community.

Yancoal supports the notion of developing a beneficial final landform. The suggestion of prescribing this at the point of development consent, however, would significantly hinder this.

4. Risk to innovation

Yancoal's rehabilitation processes are reviewed on a regular basis. This is critical in ensuring best practice rehabilitation. As such, it is incompatible to require a prescriptive position at the front-end of the approval process.

Modern mines implement and achieve best practice in rehabilitation. With the mine life spanning over many years, technology, techniques and practices will evolve and improve over time. It is profoundly counter-productive to constrain options at the beginning of the approval process.

The proposals contained in the Discussion Paper do not recognise the long-term, dynamic nature of mine development. Requiring specific and detailed rehabilitation milestones at the time of consent does not

account for changes to timing or approach to rehabilitation that may result from interruptions or amendments to the mine plan or schedule.

Proponents should not be asked to commit to a multi-decade development, and the ensuing commercial and financial risks, while locking themselves into a set of rehabilitation commitments that may be antiquated and not deliver the best environmental or community outcome at their time of delivery.

Yancoal does not believe detailed rehabilitation and mine closure planning should be locked in by prescriptive conditions of consent but rather should be adaptive, dealt with through a post approval process, such as in a management plan, while always ensuring best practice is undertaken.

Detailed resource definition and detailed mine design are often left until after an approval has been gained. For example, an approval (development consent) for a mine development may be sought prior to, or to support, making a decision to financially commit to develop the mine. In this situation, rehabilitation and post-closure planning are at best conceptual.

Overly prescriptive conditions of consent do not allow for innovation and may lead to poor long-term outcomes.

Yancoal is confident that regulatory settings can provide mining projects in regional NSW with clarity on the long-term principles that must be adhered to, while retaining the ability to continue to modify practice as required, delivering improved environmental and community outcomes.