



Environmental Protection Authority

Department of Energy, Mines, Industry
Regulation and Safety

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To Whom It May Concern,

ENVIRONMENTAL PROTECTION AUTHORITY SUBMISSION TO THE DEPARTMENT OF ENERGY, MINES, INDUSTRY REGULATION AND SAFETY'S – DRAFT GUIDELINE FOR PREPARING MINE CLOSURE PLANS.

Thank you for the opportunity to make a submission on the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) [Draft Guideline for preparing Mine Closure Plans](#) (MCP Guideline) (May 2024).

The Environmental Protection Authority (EPA) supports a streamlined approach to assessment and approvals processes to reduce duplication and improve efficiency of processes across Government. This submission is based on the principle that greater efficiency and environmental protection can be gained from alignment of MCP Guideline with the EPA's environmental impact assessment (EIA) processes and procedures.

This submission is preceded by EPA advice on the discussion paper Mining Development and Closure Proposals and Approvals Statement (31 July 2023) and the Draft Mining Development and Closure Proposed Guideline and Draft Small Operations Mining Development and Closure Proposal Proforma (6 June 2024), which are both available on the EPA's website – [EPA Submissions](#).

Consistency of environmental objectives, terminology and processes

The EPA is supportive of cross-agency uniformity in terminology, definitions and objectives, to demonstrate alignment of processes and expectations, and to make it easier for proponents to navigate the State's environmental regulatory framework and ensure environmental protection outcomes are achieved from their developments (consistent with the intent of *Streamline WA* to make it easier to do business in WA). The EPA considers that proponents and the community are entitled to expect the same environmental outcomes and generally similar environmental processes across government.

The EPA considers that the objectives and key content of the EPA's environmental factors could be incorporated into the following sections of the MCP Guideline for alignment: Section 3. Baseline data, Analysis and Implications for Closure; Section 6.

Identification of Closure Risks; Section 7.2. Completion Criteria; Appendix 1 - Planning for Mine Closure; and Appendix 2 – Overview of Specific Mine Closure Issues.

The EPA notes that some definitions and objectives of terms commonly utilised in WA environmental legislation have been abbreviated, diluting key concepts associated with those terms. Utilising the definitions direct from the *Environmental Protection Act 1986* (EP Act) and associated regulations and policies demonstrates clearer alignment for proponents. For example, ‘*rehabilitation*’ is clearly defined in the EPA’s Guidance Statement 6: “*The primary EPA objective for rehabilitation is to minimise environmental impacts resulting from permanent change to ecosystems. This requires the return of rehabilitated areas to self-sustaining and functional ecosystems comprised of local provenance species.*”¹

The EPA generally aims to avoid the use of broad terms for management objectives like ‘*ecologically sustainable*’ as this term is ambiguous, subjective and difficult for proponents, regulators and the community to practically apply and/or quantify. The EPA also considers explanation of commonly used terms which can in practise have widely different implications, such as “progressive” rehabilitation, would be valuable to ensure clarity of what is proposed in practise for specific proposals.

The EPA also strongly encourages commencing open and transparent discussions about closure and final land use planning early in the process of designing a mining proposal where final environmental impacts are unavoidable. This would be both consistent with EIA requirements, and result in more efficient and effective closure planning and implementation as significant legacy issues are more likely avoided upfront.

Adaptive Management

Current best practice for environmental management plans is to adopt adaptive management processes. Adaptive management is not currently mentioned explicitly in the MCP Guideline. The EPA recommends that a specific requirement be made in the MCP Guideline for proponents to provide a visual ‘monitoring and management process diagram,’ which includes response trigger values and subsequent actions that should be adhered to by the proponent. A proponent’s adaptive management process will typically be refined as data availability improves and the MCP matures.

Cumulative and Holistic Impacts

The EPA is currently drafting guidance, due for publication in 2024, for the assessment of cumulative and holistic environmental impacts referenced in EP Act s. 3(1B). The EPA’s systematic approach to EIA considers direct, indirect and cumulative impact pathways. It addresses cumulative environmental impacts for a given factor/value, which are concurrent, successive and incremental and arise from past, present and reasonably foreseeable future activities.

¹ EPA (2006) “*Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986) Rehabilitation of Terrestrial Ecosystems*”, No. 6, June, Western Australia.

In addition, the EPA also considers the holistic (or inter-factor) impacts of a proposal on the environment and the 'domino effect' for the environment as factor/value impacts should be considered. Holistic impacts take account of connections and interactions between impacts, and the overall impact of the proposal on the environment as a whole.

Given the long-term nature of mine closure, the EPA would like to see cumulative and holistic impacts, and associated risks, have a defined, prominent role in the preparation of MCP's. The EPA recommends that *Section 1 Description of the Mining Operation* of the MCP Guideline require proponents to include the identification of the cumulative and holistic impact boundaries for the site.

Section 9. Closure Monitoring and Maintenance

The EPA endorses a risk-based approach to mine closure planning, adaptive management and ongoing monitoring. The EPA recommends that while a minimum monitoring and maintenance period of 10 years is included, it is also made clear that longer monitoring may be required. For example, this timeframe could be inadequate for even a small operation, as reactive minerals can be potent even in small volumes, noting the large time lag that can exist between seepage source points, and expression at downstream receptors.

Additionally, in the context of the changing climate and altered weather patterns, this minimum timeframe would be insufficient. A transparent risk-based approach should be articulated by proponents in their MCPs regarding their proposed monitoring and maintenance regime with more conservative estimations early on, but becoming increasingly accurate as data becomes available and as the mine nears closure.

Sites within areas that have high biodiversity or conservation values will likely require extended periods of protection, monitoring and ongoing maintenance. These include, but are not limited to:

- Environmentally Sensitive Areas (ESA's) (updated list on Data WA: [DWER-046](#))
- proximity to population centres
- Matters of National Environmental Significance under the EPBC Act, available online through the [Protected Matters Search Tool](#)
- sites located on, or adjacent to habitat for Threatened or Specially Protected species and ecological communities (listed under State or Commonwealth legislation), unattributed data can be found on Data WA: [DBCA-011](#), [DBCA-038](#), [DBCA-036](#), [DBCA-037](#).

The EPA recommends mine closure planning and also mine closure monitoring programs to be developed in consultation with the EPA, the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity, Conservation and Attractions (DBCA), Registered Native Title Parties and relevant subject matter experts.

Next steps

The EPA welcomes further discussions on the MCP Guideline and alignment of DEMIRS and EPA EIA processes and procedures to achieve streamlined processes and improved environmental outcomes for WA.

The EPA advises that it can take other statutory decision-making processes which can mitigate potential impacts on the environment into account when deciding whether and how to assess mining proposals. The EPA currently considers various DEMIRS processes as part of this, including mine closure guidelines.

The EPA has in some recent assessments recommended specific mine closure conditions as part of Ministerial Statements, where specific issues were not sufficiently dealt with in the current guidelines. These include biodiversity outcomes, and human and ecosystem health from radiation. The EPA's preference would be to not include these conditions, or only include them as an exception, going forward. The EPA would be happy to work with DEMIRS to work towards this goal.

Yours sincerely,



Lee McIntosh

DEPUTY CHAIR, ENVIRONMENTAL PROTECTION AUTHORITY

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