

## New mine closure plan guidelines – effective 1 July 2011

The Department of Mines and Petroleum (**DMP**) and the Office of the Environmental Protection Authority (**OEPA**) have jointly prepared the Guidelines for Preparing Mine Closure Plans (**Guidelines**), which became effective on 1 July 2011. The purpose of the Guidelines is to ensure that mine sites have a planning process in place to allow the mine to be closed, decommissioned and rehabilitated in an ecologically sustainable manner to meet Western Australian regulatory requirements. This article sets out how the Guidelines apply and the potential implications for new and existing mine sites.

### New mine sites

As of 1 July 2011, the DMP requires that all Mining Proposal applications made under the *Mining Act 1978* (WA) (**Mining Act**) (**Mining Proposal**) are to be accompanied by a Mine Closure Plan. The requirement for a Mine Closure Plan will be enforced as conditions on the tenement.

As of 1 July 2011, the OEPA will generally not assess mine closure as part of its environmental impact assessment (**EIA**) process pursuant to Part IV of the *Environmental Protection Act 1986* (WA) (**EP Act**), where the Mining Proposal is subject to the Mining Act, unless the OEPA is of the opinion that there is a high environmental risk involved.

With respect to mining operations which are not subject to the Mining Act (eg pre 1899 title or *State Agreement Act*) the OEPA will assess mine closure as part of its EIA under Part IV of the EP Act. Where the OEPA assesses a mine proposal under Part IV of the EP Act, it will put the requirement for a Mine Closure Plan to be prepared in accordance with the Guidelines as a condition of the Ministerial Statement.

### Existing mine sites

Mining operations which have an approved Mining Proposal and / or a Notice of Intent under the Mining Act prior to 1 July 2011

will be required to review their Mine Closure Plans by 30 June 2014, to ensure compliance with the Guidelines.

To ensure there is an even workload during this period, the DMP will schedule the introduction of Mine Closure Plans for existing sites into the future. The scheduling is to be based on a project's proximity to closure, how well prepared the site is for closure and how well the environmental issues are being managed. The DMP anticipate to notify tenement holders of the date they will be required to submit a Mine Closure Plan by mid-late 2011.

### Changes to existing mine sites

Substantial changes to existing Mining Proposals will require a new Mining Proposal accompanied with a Mine Closure Plan in respect of those changes. Relevantly, Mine Closure Plans will be subject to the same approval requirements as new mining operations. If the changes require approval pursuant to Part IV of the EP Act, those approvals also need to be obtained.

Minor changes to an existing Mining Proposal will only be required to reference the changes to be included in the next review of the Mine Closure Plan.

### Parallel assessment

Where a mining operation requires approval under both the Mining Act and the EP Act, at the proponent's request, the DMP and OEPA will assess the Mine Closure Plan in parallel. This will occur in either of the following circumstances:

- the OEPA forwards the Mine Closure Plan to the DMP for comments as part of its assessment under Part IV of the EP Act; or
- where a proponent submits a Mining Proposal to the DMP where the same proposal is already being considered by the OEPA under Part IV of the EP Act.

## Impact on mining operators

The purpose and intent of the Guidelines is to ensure that the Mine Closure Plans meet the regulatory requirements of both the DMP and OEPA and to consolidate the approvals process resulting in faster outcomes. However, there is considerable doubt from an industry perspective that the Guidelines will meet these objectives. Of great concern to the mining sector is the fact that the requirement to prepare Mine Closure Plans earlier than has historically been required, will require the instruction of consultants to prepare the plans and will increase initial costs as a consequence. The requirement will also add a significant burden on the resource industry at the outset of a resource proposal and will not assist in the streamlining of the approvals system due to the fact that it will result in an increase in the complexity of the mining proposals before the OMP and OEPA. Of immediate concern is the potential for delay in processing approvals currently being assessed or about to be submitted and the distinct lack of transitional arrangements for existing mining proposals.

If you have any queries as to how the Guidelines affect your current mining proposals or proposed mining operation please contact Paul McQueen or Rebecca Somerford.

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