

Earth Resources Regulation

Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites

ADDENDUM

Improving rehabilitation for mines, quarries and other earth resources sites

Our rehabilitation regulatory practice

In February 2020, Earth Resources Regulation published the *Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites*. It outlines our approach and the actions we are taking to reinvigorate our regulatory practice for site rehabilitation out to 2022.

In the time since the Strategy was released, Earth Resources Regulation has made significant progress in our program to overhaul the regulation of site rehabilitation. As we have progressed, we have identified additional areas for improvement. This has necessitated an update to our Strategy to ensure it remains current and accurately reflects all our rehabilitation improvement actions.

We have prepared this document as an addendum to the *Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites*. The Addendum outlines new rehabilitation improvement actions that we have identified and reaffirms our commitment to our strategic objective and goals for rehabilitation.

In August 2020, the Victorian Auditor-General's Office delivered its report on its Rehabilitating Mines Audit. The audit recognised that Earth Resources Regulation has already taken serious and considerable steps to improve the way it regulates rehabilitation. Many of the actions required to implement the Victorian Auditor-General's recommendations were included in the *Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites* and are already underway. Some additional actions required to implement the audit's recommendations are outlined in this Addendum.

This Addendum should be read in conjunction with the *Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites*.

Strategic objective and goals

As Victoria's primary regulator of earth resources, Earth Resources Regulation is committed to protecting people, land, infrastructure and the environment across the whole resource life cycle – from the earliest exploration activity through to extraction and final site closure.

Effective site rehabilitation underpins confidence in both the resources industry and the regulator – the commitments made upon approval of a project must be fulfilled when it is finished.

Our strategic objective and goals for site rehabilitation remain appropriate and have not been changed. Our strategic objective remains to achieve site rehabilitation for mines, quarries, exploration, petroleum sites and other earth resource activities to meet government and community expectations by:

- protecting people, land, infrastructure and the environment
- ensuring land can be returned to a safe, stable and sustainable landform

- minimising the State's exposure to rehabilitation liabilities if authority holders default, and
- being a best practice regulator.

We will ensure site rehabilitation is considered at all stages of the resource life cycle. We will focus our efforts to ensure that the highest rehabilitation risks are managed effectively.

We recognise that some authority holders proactively engage, plan and undertake effective site rehabilitation – we will use their examples to encourage best practice rehabilitation by others. At the same time, we will hold authority holders to account if they do not fulfil their rehabilitation obligations.

We will also equip our regulatory staff to deliver the policies, procedures and other requirements necessary to improve the regulation of site rehabilitation.

We will provide clear, consistent advice and guidance to authority holders to enable them to understand and meet their rehabilitation obligations.

Strategic goal 1

Protect people, land, infrastructure and environment

We will regulate resource sites to protect people, land, infrastructure and the environment from potential adverse impacts of poor site rehabilitation. We will do this by working with authority holders to encourage effective rehabilitation and requiring clear closure criteria for the completion of rehabilitation.

1. Encourage increased progressive rehabilitation

We will publish a new rehabilitation liabilities policy aimed at increasing progressive rehabilitation. It will provide an option for authority holders to request more frequent bond reviews to encourage and recognise progressive rehabilitation. The current standard approach is to require authority holders to lodge a bond for the works specified in their approved work plan (or on a per hectare basis for simple operations). The new option should help to incentivise authority holders to undertake earlier rehabilitation planning and works to reduce their bond costs, by enabling them to align their rehabilitation liabilities and bond values at specific points in time during a project's life.

2. Publish an inventory of rehabilitation bonds

We will publish an inventory of all rehabilitation bonds currently held by Earth Resources Regulation, to ensure this data is transparent and readily accessible. We have already published an inventory of rehabilitation bonds held for mineral exploration, mining and quarrying sites, which is now available from Earth Resources public website. During 2021, we will progressively publish a similar inventory of rehabilitation bonds held for petroleum and all other earth resources sites, subject to complying with relevant legislative provisions.

Strategic goal 2

Ensure land is returned to a safe, stable and sustainable form

We will regulate to ensure that land is returned to a safe, stable and sustainable form. We will do this by encouraging authority holders to undertake rehabilitation planning, including specifying the final safe, stable and sustainable landform and working more closely with public and private landholders and co-regulators.

1. Establish extractive industry rehabilitation plan guidelines

We will develop guidelines specifically to assist extractive industry work authority holders to prepare high-quality rehabilitation plans that meet regulatory requirements and achieve high-quality rehabilitation outcomes. The guidelines will set out what work authority holders need to show in their rehabilitation plan, including how we will interpret the safe, stable and sustainable requirement in the regulations. The guidelines will be tailored specifically for extractives industries and will be prepared in consultation with the industry.

2. Improve whole of Victorian government management of abandoned and legacy earth resources sites

We will work with the Department of Environment, Land, Water and Planning (DELWP) to communicate our respective roles and responsibilities for abandoned and legacy mines, in line with the established legislative framework. Pending government approval, we will work with DELWP to develop a proposal for a state-wide management framework for abandoned and legacy mines.

Strategic goal 3

Minimise the State's exposure to rehabilitation liabilities

We will minimise the State's exposure to potential rehabilitation liabilities if authority holders fail to fulfil their regulatory obligations. We will do this by more accurately identifying rehabilitation liabilities and setting bonds, in line with the State's standing policy for authority holders to lodge a rehabilitation bond to cover 100 per cent of the estimated rehabilitation cost. We will also take follow-up action with a more effective compliance program.

1. Target compliance and enforcement of rehabilitation obligations at priority sites

We will develop a rehabilitation-specific inspection and monitoring program for inclusion in our Compliance Strategy and Annual Compliance Plan. We will prioritise and conduct compliance action to direct the operators of sites that have ceased operations or nearing the cessation of operations to fulfil their rehabilitation obligations.

2. Regulation of inactive sites

Even if a site is not actively producing, authority holders still have obligations to meet rehabilitation requirements. We will publish a policy to guide better regulation of inactive sites, to ensure these sites are meeting their rehabilitation requirements.

3. Define unacceptable risk

We will work with Department of Environment, Land, Water and Planning, the Environment Protection Authority the Declared Mine Land Rehabilitation Authority and industry stakeholder to develop operational policy on the meaning of 'unacceptable risk' under the MRSDA for the purposes of determining circumstances under which an authority holder would be required to transition to a contemporary risk-based work plan.

Strategic goal 4

Be a best practice regulator

We will build upon the implementation of recommendations of the Victorian Commissioner for Better Regulation's *Getting the Groundwork Right* report, by applying a risk-based regulatory approach to rehabilitation and managing our information effectively and more transparently.

1. Improve management of public records

We are preparing an information management strategy and implementation plans, improving our business intelligence tools and data systems. We will identify 'fit for purpose' records management repositories for the regulator's records, supported by the development of up-to-date procedures and training to maintain records consistently.

2. Improve the way we work with co-regulators and other government departments

We are updating our current memoranda of understanding with EPA and DELWP to reflect changes in legislation and regulatory practice. We will ensure these and our agreements with other regulators are kept up to date, remain fit-for-purpose and support effective rehabilitation.

3. Improve stakeholder engagement

We will expand our engagement to include additional stakeholders to ensure we are considering a diverse range of views. We will do this through routinely engaging with representatives from Traditional Owners groups, catchment management authorities, local governments, farming groups and environment groups.

Monitoring, evaluation and reporting on our delivery of this Strategy

We are committed to monitoring and evaluating the success of our actions by establishing clear indicators to assess the extent of improvement in site rehabilitation outcomes.

We will track our progress on our committed actions to ensure that we maintain momentum and deliver on our commitments. We will report publicly on delivery of the Strategy and Addendum on an annual basis.

Feedback welcome

We are committed to continuous improvement. We will adapt our approach to regulating site rehabilitation in response to government policy and legislative reform, industry and community feedback and practical experience over time.

If you have ideas about how we can further improve earth resources rehabilitation, please contact us at ERRFeedback@ecodev.vic.gov.au

You can also find more information about how we regulate earth resources in Victoria on our website at earthresources.vic.gov.au