

26 April 2021

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Senior Policy Officer, Regulatory Policy
NSW Resource Regulator

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Dear ██████████

WaterNSW Submission – Public Consultation - Resource Regulator's Guidelines (1 to 6) for Mining Operational Rehabilitation Reforms

WaterNSW appreciates the opportunity to provide feedback on the proposed guidelines for mining operational rehabilitation reforms. It is understood that these guidelines would support the proposed rehabilitation standard conditions and associated mandatory requirements. It is noted that the guidelines would assist leaseholders to comply with new requirements and improve clarity and enforceability of rehabilitation outcomes for all mines in NSW. The comments provided by WaterNSW below relate to the declared Sydney Drinking Water Catchment Area (SDWC).

WaterNSW Role and Responsibilities

The *Water NSW Act 2014* sets out the objectives and functions of WaterNSW. A key objective for WaterNSW is to ensure that the SDWC and associated water management works are managed and protected.

WaterNSW Mining Principles

WaterNSW's Mining Principles underpin WaterNSW's decision making in relation to managing mining impacts in the SDWC and on catchment infrastructure.

WaterNSW has no legislated powers to control or stop mining in the declared catchments, but as the partial owner and joint manager of the Special Areas we seek to influence the planning decisions and hold the subsequent mining operations to account for all impacts which significantly harm our values (principally water quantity, water quality and ecological integrity).

WaterNSW has developed the guiding principles for consideration in the environmental planning and approval process for all mining activities, including exploration, extraction, production, rehabilitation, and closure. A copy of the principles can be found at:

<https://www.watnsw.com.au/water-quality/catchment/mining/principles>.

Key IssuesDeclared Sydney Drinking Water Catchment

The proposed rehabilitation reforms require mining lease holders to prevent or minimise harm to the environment where harm to the environment has the same meaning as in the *Protection of the Environment Operations Act 1997*. Lease holders are also required to rehabilitate land and water disturbed by activities in the lease area. 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.

WaterNSW requests that any rehabilitation management plans (including risk assessments, objectives and completion criteria and controls) for mines operating in the SDWC be prepared and implemented in consultation with WaterNSW.

Guideline 1 – Rehabilitation Risk Assessment

WaterNSW understands from a presentation made by the Resource Regulator on the operational rehabilitation reforms in October 2020 that a risk assessment must be undertaken:

- before preparing a Rehabilitation Management Plan (RMP) for large mines or submitting rehabilitation objectives for approval,
- whenever a hazard is identified – as soon as reasonably practicable after it is identified, or
- whenever directed to do so in writing by the Secretary.

Guideline 1 summarises the potential risks for each of the six rehabilitation phases. WaterNSW considers that the following issues need to be addressed or clarified:

- The timing and at what stage of the project the rehabilitation risk assessment is to be undertaken.
- The bowtie risk assessment focuses on rehabilitation and mine closure and addresses the rehabilitation risks during operational and rehabilitation phases. It also focuses on the consequences of where post-mining conditions are unsuitable to support the final land uses. WaterNSW considers this matter should be dealt with earlier as part of any approval of the project.
- It is not clear which phase the potential risks associated with "Mine subsidence affected areas" fit in. Any rehabilitation risk assessment should consider seam to surface connective cracking and loss of surface water into the mine workings, whether this happens during the life of the mine or beyond.
- It is not clear if a RMP is required for small mines. The document "Form and Way for small mines" also does not provide any details about RMPs or rehabilitation objectives and targets.
- The guideline should incorporate rehabilitation of exploration sites.
- There are certain landscapes where the target (for particular activities) should be restoration rather than rehabilitation – this is a requirement included in WaterNSW's approvals for exploration and environmental boreholes (in accordance with the 'National Standards for the practice of ecological restoration in Australia' SERA 2018).

Guideline 2 – Rehabilitation Records

- Who else has the power to view records, e.g. the landholder?

Guideline 3 – Rehabilitation Controls

- When placing salvaged vegetative materials, especially in offset areas, controls are required to avoid transfer of weeds, pests and disease.

Guideline 5 – Rehabilitation Objectives and Completion Criteria

- WaterNSW understands that objectives and completion criteria would usually be developed as part of the development consent for mines.
- Consultation with the landholder regarding the final land use and acceptance criteria is listed but should be expanded and introduced in other relevant areas of each guideline.

Please contact me on [REDACTED] on the details above if you wish to discuss matters raised in this submission.

Yours sincerely

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Jessie Evans
Mining Manager