



DIVISION OF RESOURCES & ENERGY

# Resources Rehabilitation Regulatory Framework –Upper Hunter Mining Dialogue Workshop

Dr David Blackmore

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# Outline

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- What is rehabilitation for resource (mining) projects?
- Overview of current Rehabilitation Regulatory Framework
  - Security Bonds
  - Performance requirements
  - Rehabilitation Management Plans
  - Regulatory Agencies
  - Compliance Monitoring
  - Enforcement powers
- Rehabilitation Reform Program
  - Principles of DRE Rehabilitation Reform Program
  - Key aspects of DRE Rehabilitation Reform Program

# Rehabilitation Principles

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- Rehabilitation = areas disturbed by exploration, mining or gas activities are returned to a condition that is safe, stable and in line with consent approvals
- The focus of rehabilitation will be to support a specified post-mining land use(s)
- This may include the re-establishment of native ecosystems, agricultural land uses (grazing or cropping), industrial and recreational uses



# NSW – Rehabilitation Security Obligations

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- A security bond must be provided, **up front** before any disturbance occurs.
- A security bond is either submitted as cash or in the form of a bank guarantee with a financial institution – strict standards applied (e.g. APRA oversight).
- Bonds must be **maintained throughout** exploration and production activities and are continually adjusted to reflect the actual rehabilitation liability.
- Bonds **remain with the NSW Government** at all times, even if the company owning the title goes into liquidation.
- Before a title is transferred, new title holder must have bond in place for full liability.
- Bonds are only released when rehabilitation requirements have been met. *This is true even if the title is cancelled.*
- NSW has extensive compliance and enforcement powers for contraventions of rehabilitation obligations

**DRE currently holds approximately \$2.4 Billion in security deposits (Nov 2016)**

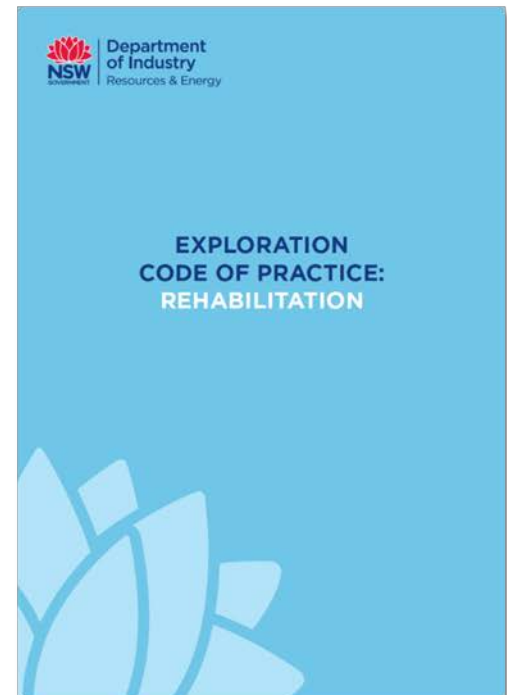


# Rehabilitation Performance Obligations

Exploration

## The NSW Rehabilitation Code - Exploration

- Sets the mandatory requirements for compliance
- Enables title holders to adopt a risk-based approach
- Includes guidance material on best practice rehabilitation





# Rehabilitation Performance Obligations

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Production

## Production & Closure

- ✓ Environmental Impact Statement – Rehabilitation Principals
- ✓ Development Consent - Final Land Use Requirements
- ✓ Mining & Petroleum Title/Authorisation: Rehabilitation Conditions
- ✓ **Rehabilitation Management Plan Guidelines (see Mining or Petroleum Operations Plans – MOPs & POPs)**
- ✓ Active rehabilitation as mining proceeds
- ✓ Annual Rehabilitation Reporting Guidelines

# Rehabilitation - Lead Regulatory Agencies

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	Exploration & Assessment	Production	Care & Maintenance	Closure
Standard Setting	DRE	Planning & DRE	Planning & DRE	Planning & DRE
Monitoring	DRE	DRE	DRE	DRE
Enforcement (non-petroleum)	DRE	Planning & DRE	Planning & DRE	Planning & DRE
Enforcement - Petroleum	EPA	EPA	EPA	EPA

# Rehabilitation - Compliance Monitoring

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- Resource operations are risk-ranked to ensure inspectorate resources are deployed more frequently to operations with higher potential risks
- Planned audit and inspection programs are conducted to monitor both rehabilitation progress and quality
- Auditors, Inspectors and Investigators from across Government monitor and enforce compliance with rehabilitation requirements
- Annual reporting is required by titleholders on rehabilitation progress





# Enforcement Powers

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Authorised Inspectors may :

- enter land, inspect, copy and seize items
- require persons to produce documents and answer questions
- issue statutory notices and directions
- temporarily stop site operations
- issue penalty notices
- institute prosecution action

**In addition, DRE may suspend or cancel titles or activity approvals**

# Rehabilitation Reform Program

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What is the problem we are trying to solve?

- Ensure progressive rehabilitation occurs
- Ensure sustainable rehabilitation outcomes are achieved
- Community trust in regards to government's regulatory processes
- Industry's social licence to operate

What are the general policy principles we want to follow?

- Integration of closure and rehabilitation planning into design
- Outcomes focused and risk-based regulation
- Appropriate allocation of government resources to activities that represent greatest risk to regulatory outcomes
- Fostering industry innovation to achieve best practice rehabilitation

# Key Aspects of Rehabilitation Reform Program

Reform Aspect	Purpose & Scope
Review of Mining Lease Conditions	<ul style="list-style-type: none"><li>• Prove more specificity in regards to rehabilitation outcomes to be achieved – consistent with development consent</li><li>• Streamline conditions to improve enforceability and reduce regulatory overlap</li><li>• Risk based approach proportionate to the scale, risk and nature of mining</li></ul>
Annual Rehabilitation Program & Compliance Report	<ul style="list-style-type: none"><li>• Submit plans / data to demonstrate previous 12 months rehabilitation progress as well as forward three yearly progressive rehabilitation forecast – DRE to approve and determine compliance</li><li>• Report on rehabilitation statistics and key performance indicators</li><li>• Report on rehabilitation performance against objectives and completion criteria as well as outcomes of research and monitoring programs</li></ul>

# Key Aspects of Rehabilitation Reform Program cont.

Reform Aspect	Purpose & Scope
Rehabilitation Management Plan Guidelines	<ul style="list-style-type: none"><li>• For high risk activities, RMP outlines the case to government how risks to achieving sustainable rehabilitation outcomes will be achieved</li><li>• Approval not required, instead DRE resources shifted to regulating on-the-ground performance</li><li>• DRE may use direction powers to require a title holder to address potential deficiencies if required</li></ul>
Rehabilitation Guidelines	<ul style="list-style-type: none"><li>• Guidance notes to assist industry with achieving compliance</li><li>• Guidance on preparation of Annual Rehabilitation Program &amp; Compliance Report, Rehabilitation Management Plan, Objectives and Completion Criteria</li><li>• Foster industry to adopt innovative solutions and best practice to meet mandatory requirements</li></ul>

# Key Aspects of Rehabilitation Reform Program cont.

Reform Aspect	Purpose & Scope
GIS Rehabilitation Spatial Data	<ul style="list-style-type: none"><li>• Guideline to be developed to assist industry prepare and submit geospatial rehabilitation data</li><li>• Web-based portal to be developed for data submission and for public viewing of progressive rehabilitation and final landform outcomes</li></ul>
DRE Site Rehabilitation Assessment Protocol	<ul style="list-style-type: none"><li>• Provide consistency across DRE in regards to assessment of rehabilitation performance.</li><li>• Specifically, progressive rehabilitation and whether risks are being satisfactorily managed</li></ul>
DRE Rehabilitation Performance Dashboard	<ul style="list-style-type: none"><li>• Identifies areas of best practices and opportunities for improvement</li><li>• Provides basis for ongoing review of governments rehabilitation assessment program to focus regulatory efforts on poor performance</li></ul>