

THE CHAMBER OF MINERALS AND ENERGY OF WESTERN AUSTRALIA SUBMISSION ON THE REVIEW OF THE GUIDELINES FOR PREPARING MINE CLOSURE PLANS 2011

General comment(s)

In August 2013, the Chamber of Minerals and Energy (CME) hosted a Mine Closure Guideline Review Workshop (the 'Workshop'). This Workshop brought together government and industry representatives to discuss the Department of Mines and Petroleum (DMP) and Environmental Protection Authority (EPA) *Guidelines for Preparing Mine Closure Plans, 2011* (the 'Guidelines').

At the workshop, CME Member companies shared their experiences and opinions on the application of the Guidelines in preparing mine closure plans since its implementation in 2011. A focus was made on removing the potential for inefficient process and duplication in the Guidelines.

The Workshop was facilitated by URS Australia Pty Ltd (URS), and a summary report was prepared by URS to record the outcomes of the Workshop (see attached).

The issues discussed below were identified through the Workshop and highlight where CME member companies consider the Guidelines could be improved through this review. The submission also suggests further opportunities for both industry and government to improve the approvals processes associated with Mine Closure Plans (MCPs).

Section 1: Purpose of the Guidelines

Issue

A range of views have been expressed about the level of detail and prescription that should be provided in the Guidelines. It has been identified:

- Clarity is required on the level of detail proponents are required to provide in accordance with the Guidelines.
- As a consequence of absence of feedback from DMP, lack of understanding on behalf of proponents regarding what sections of their plans are done well and which could be improved in the future.

Recommendation

- The Guidelines wherever possible should adopt an outcomes focus approach in prescribing closure details.
- DMP to publish examples of approved mine closure plans and/or sections of closure plans which meet DMP standards. These examples should be published on the DMP website in separate documents to the Guidelines.
- DMP to provide feedback to proponents following submission of their plans to identify those sections done well and why, and those which could be improved and how.

Section 2: Regulatory and administrative context

Issue

There is some uncertainty around how MCPs apply to sites which commenced mining or were closed before the introduction of the Guidelines in 2011. The key points identified in relation to this issue were:

- The challenges in collecting data to include in an updated MCP for historic areas which were approved prior to 2011 under the EP Act, Part IV and V.
- The challenges in achieving current standards for closure when a landform has been largely constructed and / or rehabilitated to historic standards. In addition, there is a lack of clarity of the standards expected to be achieved by rehabilitation conducted a decade ago versus what is expected from recent rehabilitation efforts.
- Lack of clarity on what constitutes a substantial change and the need to submit an amendment to a Mining Proposal if the current mine closure designs or strategies are substantially different from those outlined in the current Mining Proposal.

Recommendation

- DMP to provide guidance on expectations for 'old' versus 'new' mines.

- DMP to provide guidance on what constitutes a substantial change to a Mining Proposal.

Issue

There were a number of issues raised regarding duplication. These can be categorised into two areas:

1. duplication of data/information required in MCP which has already been submitted in other documents and
2. duplication of regulatory requirements (e.g. Mining Act, EP Act, State Agreement Acts).

It was noted the recent issuing of Environmental Protection Bulletin 19 by the EPA is designed to reduce duplication in the assessment of mine closure by the DMP and OEPA.

Industry participants expressed uncertainty and a lack of clarity around the assessment process and potential differences in requirements for MCP's for sites approved under different regulatory instruments (e.g. Mining Proposal, Ministerial Statement, State Agreements). The uncertainty/questions raised can be summarised as:

- Need for clarity on assessment/approval process for sites with components covered by multiple regulatory frameworks (e.g. State Agreements, Mining Act, Part IV and V of EP Act).
- Need for clarity on how the new roles/responsibilities for Department of Environment Regulation (DER) and Department of Parks and Wildlife (DPaW) will be allocated to assessing closure conditions in old Ministerial Statements given the DEC has historically been involved in assessing MCP's through closure conditions issued in Ministerial Statements.

Recommendation

- The MCP should be a standalone document containing all key rehabilitation information, providing cross-references to rehabilitation commitments and conditions contained in approvals not covered by the Guidelines (e.g. State Agreements, pre-2011 EP Act Part IV or V approvals), if any.
- MCP should not be used for reporting on monitoring performance, as this information is reported in the Annual Environmental Report (AER).
- The DMP should provide guidance on the relationship between Mining Proposals, Mine Closure Plans and AERs to clarify how they interact and support each other. Any identified duplication should also be removed.
- If duplication in requirements under the Acts (e.g. Mining Act, EP Act) is the root cause for proponents having to submit the same information multiple times, consideration should be given to:
 - Revising the legislation to remove the duplication.
 - Investigate whether a) a single 'approvals and regulation' agency could be created to eliminate regulatory duplication or b) a delegation of authority could occur so that only one agency is dealing with the issue.
 - Strengthen the Lead Agency Framework and expand its scope to be applicable to small projects.

Section 3: Principles and approaches for mine closure

Issue

There were a number of opinions raised regarding what should, or should not, be included in MCP's at different stages of mine life. It has been identified:

- Clarity is required on the level of information required to be provided for long life mines e.g. at early stage of mine only focus on high risk areas such as Waste Rock Landforms (WRLs) and Tailings Storage Facilities (TSFs).
- Clarity is required on whether MCP Guidelines should be prescriptive around addressing community, socio-economic factors and whether this is the best place to do so. Industry would prefer the Guidelines to not be prescriptive around this aspect of mine closure.

Recommendation

- Improve the clarity of the Guidelines regarding what needs to be included in MCP's at the early stages of a long life mine.
- Clarify position on addressing community and socio-economic factors in MCPs.

Issue

A number of questions were raised regarding end land uses in a closure context, how and when they are selected and accommodating the potential for them to change over time. It was agreed by Workshop participants that further exploration / discussion was required to address this area.

Recommendation

- It was agreed that further exploration / discussion of this issue was required and suggested aspects to be discussed and possible ways forward were;
 - End land use to be established on a regional basis.
 - Integration between proponents in same region and development of complimentary end uses based on regional context, at landscape scale (outcome based).
 - Conduct regional risk / benefit analyses to inform decision making on end land uses (benefit optimisation in regional context).
 - The timeframes over which end land uses should be assessed.

Section 4: Structure and content of a Mine Closure Plan

Issue

There were a number of issues raised around completion criteria and their application in MCP's. These can be broadly collated into the following categories:

- Uncertainty as to what is meant by completion criteria; what they should cover and what they should look like. It was noted that often criteria have tended to focus on revegetation outcomes, but have missed other aspects such as stability and hazardous materials, and that more specific guidance is needed on closure of tailings storage facilities
- Role of outcome based criteria and a focus on ecosystem function versus the 'prescriptive' approach outlined in the guidelines.
- It was noted realistic completion criteria are difficult to predict during the approvals stage of a mine and that returning a mine to 'pre-mined' condition is extremely challenging.
- Setting completion criteria early in the mine life for long life mines (e.g. 20 years) is difficult and there is concern over establishing completion criteria for long life mines early in the mine life. Industry would prefer an iterative approach to setting and reviewing / revising criteria. DMP does not always follow the iterative approach set out in the Guidelines.
- Industry supports a move away from prescriptive to an outcomes focused approach to MCP guidelines including the development of completion criteria. This is especially important for MCP's developed during early stages of mine life to allow for operational changes, initially identified or shifting priorities/risks etc.
- Need for a more strategic approach to establishing criteria by looking at landscape scale outcomes.

Recommendation

- As discussed above in **Purpose of Guidelines**, examples of sections of MCPs demonstrating good criteria could be published on the DMP website.
- Further discussions to occur between industry, DMP and EPA to determine what constitutes a realistic approach towards completion criteria/objectives during the approval stage of a mine.
- CME to work with members and DMP to consider how guidelines can be revised to facilitate an outcome focused approach including for the development of completion criteria.
- DMP to provide clear guidance on process (i.e. how should criteria be developed), outcomes and specific examples (of acceptable completion criteria etc.) in support of an outcome focused approach.
- DMP to run a workshop to:
 - Explain the process for developing criteria (including engaging with stakeholders).
 - Provide guidance on linking criteria to objectives, research, trials and monitoring.
 - Provide examples of criteria.
- In the Guidelines, define a process for review / evolution of completion criteria which clarifies the iterative process and focuses more strongly on setting objectives and an adaptive process for developing criteria. An iterative approach will also need to include consideration of legal requirements such as the need to rehabilitate scheduled species under the Wildlife Conservation Act 1950. An opportunity exists to hold workshops between DMP and industry to align expectations regarding this approach.

- Consider allowing for a more strategic approach to establishing criteria at landscape scale in the guidelines noting the role of government in assessment of landscape scale impacts through strategic assessments and the consideration of cumulative impacts.
- DMP could facilitate workshops in the regions to encourage better regional outcomes.

Issue

Industry believes the Guidelines are too prescriptive and rigid and should allow for greater flexibility.

Recommendation

- Conduct a review of the ‘prescribed’ structure of MCP for practicality and effectiveness to industry, lead by DMP / OEPA with input from industry, to focus on delivering outcomes.
- Allow for flexibility in Guidelines and for ‘pre-submission’ consultation with DMP to determine MCP content / structure requirements, if requested by proponents.

Appendices

Issue

Technical issues for closure were identified as a concern in the areas of Pit Lakes, TSFs, and WRLs.

Key issues where further guidance is required include:

- Long term evolution of TSFs and WRLs.
- Impacts of Open Voids / Pit Lakes in WA.
- Acid and Metalliferous Drainage (AMD) management.

Recommendation

- Investigate options for facilitating research into technical issues. Options could include joint scoping of issues needing research, industry / government / academia collaborations, individual research activities.
- Industry to consider the level of detail and prescription needed in MCP guidelines and develop a consensus position. Detailed guidance around technical issues could be provided in separate guidelines to allow the MCP Guidelines to remain outcomes focused.
- Streamlining guidance material and removing duplication wherever possible was supported.
- Improvement to the technical guidance on key issues of Pit Lakes, TSFs and WRLs in Appendix of Guidelines.