



Victoria Government Gazette

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Subordinate Legislation Act 1994

NOTICE OF DECISION

Mineral Resources (Sustainable Development) (Mineral Industries) Amendment Regulations 2022

I, Jaala Pulford, Minister responsible for administering the **Mineral Resources (Sustainable Development) Act 1990** (the Act), give notice under section 12 of the **Subordinate Legislation Act 1994** (SLA) that further to public consultation on a Regulatory Impact Statement (RIS), I have decided to recommend the making of the **Mineral Resources (Sustainable Development) (Mineral Industries) Amendment Regulations 2022** (proposed Regulations) to revise the **Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019** (the current regulations).

The RIS and exposure draft of the proposed Regulations were open to public consultation from 20 July 2022 to 17 August 2022, and 48 submissions were received. After consideration of these submissions in accordance with section 11 of the SLA, the consultation draft of the proposed Regulations will remain generally in the same form but feature substantive changes to administrative and operational requirements and strengthen stakeholder consultation requirements.

In summary, the response to submissions is as follows:

1. Community engagement – most submissions were supportive of the consultation requirements while others sought more prescription. Substantive changes have been made to the proposed Regulations to strengthen stakeholder consultation and engagement in the preparation and implementation of declared mine rehabilitation plans. The proposed Regulations have been amended to require public consultation for at least 60 days on proposed plans before approval can be sought from the Department Head. The proposed Regulations have been revised to explicitly foreshadow Ministerial guidelines for stakeholder engagement plans.
2. Rehabilitation outcomes – submissions were supportive of, or acknowledged, the safe, stable, and sustainable outcomes set out in the Act, although some requested additional outcomes. Some submissions suggested that more time would be needed to prepare declared mine rehabilitation plans while others suggested less time should be allowed. The Act establishes rehabilitation outcomes and, as such, amendments to those outcomes is beyond the scope of the proposed Regulations. The proposed Regulations have been revised to enable the Minister to extend, on application, the time to prepare plans by an additional 24 months. Preparation will require significant stakeholder engagement and the development of detailed guidance and shortening the time to prepare plans would jeopardise those activities. Guidance material will be developed to provide certainty on plan content, submission, and application considerations.
3. Milestones – most submissions did not consider this component of the proposed Regulations, but were supportive of the iterative approach outlined in the RIS. The proposed Regulations are intended to give effect to that approach. They have been revised to clarify that milestones need to cover the period before mine closure, and that all plans will also need to include milestones for ongoing monitoring, management, and maintenance of the declared mine land.
4. Closure criteria – some submissions suggested that the standards to be met by licensees should be set by Government while others queried potential regulatory duplication concerning obligations under other regulatory frameworks. The proposed Regulations have been revised to remove such duplication and to acknowledge the primary role of the Act and the Department Head in setting standards under the legislative framework.
5. Post-closure plans – some submissions requested greater prescription while others sought more clarity on content requirements. The proposed Regulations have been amended to require the identification of plant that is used to meet closure criteria and which may be used post-closure. Guidance material will be developed to provide further detail on post-closure plan content.

SPECIAL

6. Plan expectations – some submissions sought greater prescription on plan content, and alternative rehabilitation options. Some also expressed uncertainty about roles and responsibilities assigned in the Act. Under the existing legislative framework, Government set the rehabilitation outcomes that all proposed plans must achieve. The obligations expressed in the proposed Regulations align with the Act under which licensees have responsibility for the development of, and consultation in relation to, plans. Guidance material will be developed to provide further detail on consultation and plan development.
7. Decision-making on rehabilitation plans and closure – submissions commented on decision-making timeframes, integration of expert advice and public submissions into decision-making, entities that should be consulted on rehabilitation plans, and threshold for plan variations. The Act provides Ministerial discretion on decision-making timeframes and, with the proposed Regulations, oblige decision-makers to consider independent, expert advice and public submissions on submitted plans.
8. Reporting requirements – the submissions that addressed this component of the proposed Regulations supported, or acknowledged the need, for annual reporting on plans while some proposed additional reporting requirements and public disclosure of reports. The proposed Regulations have been revised to include the identification of potential issues in plans and to better distinguish processes required for rehabilitation purposes and other processes required under State and Federal environmental legislation. The Minister’s discretion to make annual reports public is provided under the Act, so amendments to the proposed Regulations in that respect are out of scope.
9. Declared Mine Fund Contribution – few submissions addressed this component of the proposed Regulations. The proposed Regulations do not provide a complete basis on the Minister determining contribution requirements into the Declared Mine Fund, but the benefit of providing clarity on how this will be calculated is noted and is likely to require the development of detailed, binding guidance materials in the future.

A detailed statement of reasons will be published on the Engage Victoria website.

HON. JAALA PULFORD MP
Minister for Resources

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