

To: DEPARTMENT OF JOBS, PRECINCTS & REGIONS - EARTH RESOURCES REGULATION

Re: DRAFT OPERATIONAL POLICIES – INACTIVE EARTH RESOURCE SITES

6 May 2022

Introduction

The Association of Mining and Exploration Companies (AMEC) welcomes the opportunity to provide a submission to the Victorian Department of Jobs, Precincts & Regions (DJPR), Earth Resources Regulation (ERR) on the draft *Operational Policy – Inactive Earth Resource Sites* (Draft Policy).

About AMEC

AMEC is a leading national minerals industry body representing over 450 member companies across Australia. Our members are explorers, emerging miners, producers, and a wide range of businesses and services working in and for the minerals industry.

Industry welcomes operational policies to provide guidance and clarity

AMEC welcomes the initiative to develop an operational policy to provide clarification on the important matter of inactive sites. This is a key issue for the minerals industry and clear guidance will support the industry to maximise compliance.

At this time of a 'new Golden Age' in Victoria's minerals industry, Government operational policy should proactively support and encourage the renewed interest and investment in the State.

AMEC offers the following comments and recommendations to ensure that this operational policy provides clear and concise guidance to Victoria's minerals industry stakeholders:

1. Provide clarification on the objectives of this policy and the interaction with existing policy

In August 2020, the Victorian Auditor-Generals Office (VAGO) published an audit on *Rehabilitating Mines* that included regulator management of 'legacy' and 'abandoned' mines. In February 2020, Earth Resources Regulation developed the *Regulatory Practice Strategy for the Rehabilitation of Earth Resource Sites* in response to the VAGO audit. The Draft Policy objectives are detailed around 'inactive sites' and their management under various regulatory provisions. No specific reference to 'inactive sites' is made in the Acts referenced by this policy.

AMEC recommends that further clarity be provided around the purpose and objectives of the policy and how the policy interacts with the existing legislative framework and other policies.

2. Provide clarity on the process for suspension of operations

The Draft Policy provides some understanding of the process and actions required for an inactive site but does not clarify how and when a site can be suspended. This information would help industry maximise compliance and clarity requirements for industry, Government, and community.

AMEC recommends the policy includes information on the process for a site to be suspended and so classified as 'inactive'.

3. Provide consistency in definitions described under the Operational Policy.

Section 3.0 of the Draft Policy defines an 'inactive site' as "*an earth resource site for which there has been no continuous resource production over the following periods of time and requires rehabilitation.*" It is unclear why the distinction of an 'inactive site' varies between mining licences (2 years) and that of an extractive work authority (10 years). It is also unclear why prospecting licences are not included in this policy as this tenure form also provides permit for certain mining activities.

AMEC recommends the definition section provides for a minimum three (3) year period for all tenure forms or alternately, the full extent of the renewal period as allowed under the *Minerals Resources (Sustainable Development) Act 1990* for that licence.

AMEC also recommends that prospecting licences are included in this policy for completeness.

4. Remove reference to mineral exploration

Section 4.1 of the Draft Policy defines objectives for "*sites where operations have yet to commence*". Included in this is a reference to "*a holder of a mineral exploration licence*". However, a mineral exploration licence does not permit mining or warrant classification as 'inactive sites'. Exploration licences have also been excluded from Section 3 definitions.

AMEC recommends removing the reference to mineral exploration as mineral exploration does not permit mining or classification as an 'inactive site'.

5. Greater clarity required on production Risk Assessment Methodology framework

Section 4.3.2 of the Draft Policy provides a table outlining specific guidance regarding the risk associated with 'suspended production'. and 'production not commenced'.

AMEC recommends that, for the avoidance of confusion, the terminology is consistent and reflective of the operational state being referred to (i.e., either 'not commenced' OR 'suspended').

Additional recommendations regarding the draft operational policy in the order they have been presented are as follows:

Risk for earth resource sites – production <u>not commenced</u>		
Designation	Current detail	AMEC Recommendation
UNACCEPTABLE	(2) <i>Authority holder and regulator not able to agree on a revised timeframe to plan and commence production</i>	AMEC recommends provision of a period of negotiation (e.g., 6 months) and process toward achieving a mutually beneficial outcome to plan and commence production instead of the assessment of unacceptable risk.

Risk for earth resource sites – production <u>suspended</u>		
Designation	Current detail	AMEC Recommendation
ACCEPTABLE	(3) <i>Site has been fully rehabilitated</i>	AMEC notes that re-commencing production on a ‘fully rehabilitated’ site imposes an unnecessary cost on the part of the authority holder who has agreed to undertake progressive rehabilitation as a condition of their work plan. AMEC recommends amendment to ‘site has been progressively rehabilitated as appropriate to the program of works’ instead of ‘fully rehabilitated’.

Risk for earth resource sites – production <u>suspended</u>		
Designation	Current detail	AMEC Recommendation
TOLERABLE	(3) <i>Any previously disturbed land areas have been progressively rehabilitated or are undergoing rehabilitation</i>	AMEC notes that ‘previously disturbed land areas’ may include those where production has been suspended but where rehabilitation has not been undertaken as there is intention of resuming operations in that area. Any rehabilitation under such circumstances could be counterproductive to any resource development. AMEC recommends that ‘as appropriate to the work plan’ is added to the policy detail so that progressive and full rehabilitation is understood.
UNACCEPTABLE	(2) <i>Any new risk or hazards caused by suspension of production are not actively being managed</i>	The important terms or concepts are not defined so AMEC recommends that ‘risk’ and ‘hazard’ are defined and the process explained, including appeal and an outcomes-focused and workable timeframe.

6. Outline the appeals process required under ‘legislative remedies for unacceptable risk’

Section 4.3.3 of the Draft Policy states “*Earth Resources Regulation has powers to appropriately manage sites which continue to present unacceptable risk and where the authority holder has not demonstrated sufficient commitment to achieving acceptable outcomes.*”

AMEC recommends greater clarity is included on the determination and appeals process following a determination of ‘unacceptable risk’ and the process and likely timeframe, that may include the surrender of a licence by an authority holder with just the initial rehabilitation at risk.

7. Greater clarity around General Procedures Request for Further Information

Section 5.2 of the Draft Policy states “*Authority holders are required to submit current and accurate information to inform the assessment of their site. Authority holders may also be requested to submit updated information to inform the ongoing plans and status of their site.*” The requirement in “28 days” should also be clarified as any day or business days.

AMEC recommends greater clarity is needed around the information required from authority holders if a request to suspend operations has been made and accepted and the timeframe clarified.

8. Redirect the Rights of Appeal process

Under section 5.3 of the Draft Policy, decisions by Earth Resources Regulation may be resolved by appeal to the Victorian Civil and Administrative Tribunal (VCAT) or the Mining Warden.

AMEC recommends that in the interests of efficiency and expediency, disputes involving the authority holder and Earth Resources Regulation should first be directed and heard through the Mining Warden and then, if a resolution is unable to be made or deemed unsatisfactory by either party, a final determination could be made through a formal appeal to VCAT.

AMEC looks forward to further consultation on this policy and if you have any queries regarding this submission, please do not hesitate to contact:

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