

DEPARTMENT OF ECONOMIC
DEVELOPMENT, JOBS,
TRANSPORT AND RESOURCES

Project Plan

Rehabilitation Bond Reviews

24 June 2015

Project Plan – Rehabilitation Bond Reviews

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DATE: 3/7/15

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APPROVED: _____



DATE: 3/7/15

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1.0 Overview

Name of Project

Rehabilitation Bond Reviews

Background

Rehabilitation bond reform has been on the government policy agenda through Stages 1 and 2 of the *Mineral Resources (Sustainable Development) Act 1990* review, during which government prepared issues papers, targeted discussion papers, coordinated a working group (that included industry representatives), and commissioned a report prepared by KPMG (June 2011) to investigate alternative forms of financial assurance for mining and extractive industries site rehabilitation. The resulting paper detailed “ten guiding principles” that have since been adopted for any bond reform considerations.

Earth Resources Regulation (ERR) has recommenced the development of reforms relating to how rehabilitation bonds are administered in Victoria. The reforms follow on from the KPMG (2011) report, and are in response to the Government’s commitments to the 2012 Economic Development and Infrastructure Committee’s (EDIC) *Inquiry into Greenfields Mineral Exploration*, which made twenty-five recommendations to ensure the efficient and responsible operation of Victoria’s Earth resources sector as a driver of the State’s ongoing economic growth.

The EDIC response recommended bond reform measures to be implemented. Further, longer term reform options have been developed. In addition, the Red Tape Commissioner, appointed under the previous coalition government recommended reform proposals relating to the administration of rehabilitation bonds.

Introduction

For mining licences, rehabilitation works are set out in an approved work plan and work plan variations. Licensees must enter into a rehabilitation bond for a specified amount prior to commencing mining operations. The level of the bond is based upon the rehabilitation liability. This amount may be adjusted at any time during the life of the mining licence to reflect the rehabilitation liability, which varies as mining progresses. If a licensee fails to satisfactorily rehabilitate the mining area when mining ceases, the rehabilitation bond may be used by the Minister to fund the rehabilitation works to be carried out by the State. If the rehabilitation bond is insufficient to cover the assessed liability, the State may be liable for the shortfall. The Minister may recover the cost of carrying out rehabilitation works that are not funded by the rehabilitation bond through the court, from the licensee.

To assess the rehabilitation liabilities of the State’s mining and extractive industries sites and ensure bonds are adequate thereby minimising risk to the State, a program to investigate and develop a methodology to assess the rehabilitation liability of sites in Victoria is required. The Hazelwood Mine Fire Inquiry (2014) accelerated a review of the three Latrobe Valley brown coal mines bonds with regards to assessments of the rehabilitation liabilities for each site.

The three Latrobe Valley mining licences are:

| | |
|-----------|---------|
| Yallourn | MIN5003 |
| Hazelwood | MIN5004 |
| Loy Yang | MIN5189 |

These mining licences have been selected initially as they have been the subject of significant public scrutiny following the release of the Hazelwood Mine Fire Inquiry Report (2014). The amounts of the rehabilitation bonds held for the respective licences are purported to be significantly lower than the rehabilitation liability of each licence, thereby representing a potential risk of unfunded liability for the State.

This project aims to independently assess the rehabilitation liabilities of the three Latrobe Valley brown coal mines to determine an accurate liability for each site. It is expected that the learnings, strategies and

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outcomes from this project will inform the development of a methodology to assess the rehabilitation liability for other high risk earth resources sites in Victoria.

This project may also consider subsequent options for increasing rehabilitation bonds over time for licences that are assessed as being significantly insufficient, however this will be explored in further detail should the project scope extend to this work at a later stage.

Objective

That the current rehabilitation liabilities for the three Latrobe Valley brown coal mines be understood and estimated.

Approach

The following action items are proposed for each of the three brown coal mines separately as a component of this project:

- i. Undertake a desktop review of the approved work plans, rehabilitation plans and current status of rehabilitation works for the three brown coal mines.
- ii. Calculate the current rehabilitation liabilities for the three brown coal mines against the relevant approved work plans.
 - Desktop review the existing work plans (and rehabilitation plans) to ascertain the extent of the current operation and progressive rehabilitation to-date, and
 - calculate the current rehabilitation liability for each site.
- iii. Review key stages of progressive rehabilitation and critical rehabilitation objectives over the approved life of the mine, and calculate the costings to achieve mine closure as required by the rehabilitation plan at the end of the approved mine life.
 - Identify and describe the scope of works that will need to be undertaken to implement the requirements of the rehabilitation plan, and include milestones. Such works may include, but not be limited to, type, location, timing and extent of work to be undertaken.
 - Calculate the costs related to achieving key rehabilitation milestones (which may include, for example, final landform, revegetation requirements, among others).

2.0 Scope

| | |
|---------------------|---|
| In scope | The three Latrobe Valley coal mining licences |
| Out of scope | Other mining and extractive licences |

Assumptions

- The Minister will become involved in the decision for the bond amount and options analysis resulting from the estimation of the rehabilitation liabilities.
- ERR will liaise directly with representatives of each of the mines separately to consult on findings and reach an agreed liability.

Constraint

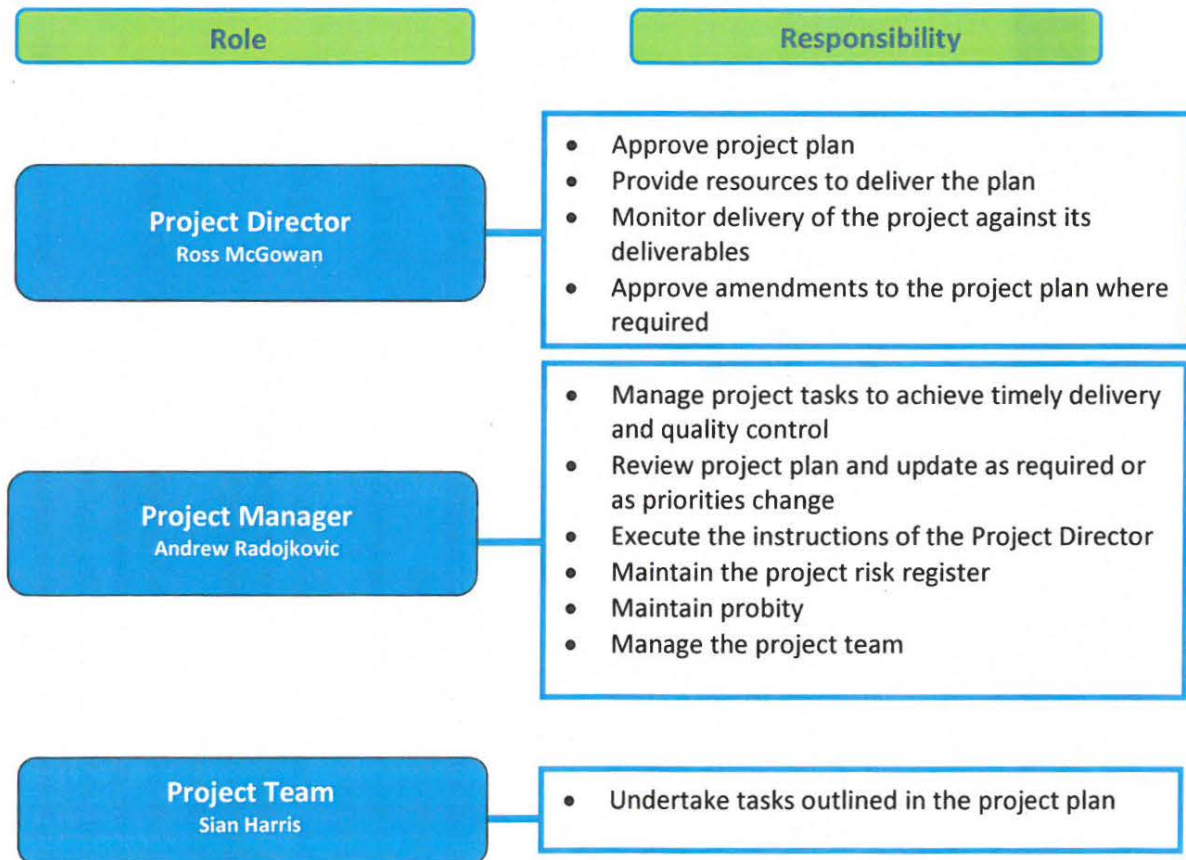
- Additional resources and time that may be required for options analysis
- Whole of Victorian Government approach that includes approvals from other agencies and Ministers

Related Project

ERR’s Response to the Hazelwood Mine Fire Inquiry
 Reopening of the Hazelwood Mine Fire Inquiry

3.0 Governance

Roles and responsibilities



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4.0 Key Milestones and Deliverables

| Milestones | Completion | Responsibility | Deliverables |
|---|-------------------|--|---|
| Establish Bond Review Project | May 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Project Plan |
| Inform Latrobe Valley coal mines of bond review project | 5 June 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Letter to each coal mine |
| Undertake assessment of rehabilitation liability for the three LV Brown coal mines | 19 June 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Preliminary draft report delivered |
| Brief Minister on preliminary draft rehabilitation assessment and issues of interest | 3 July 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Ministerial briefing lodged in MSS |
| Consult with DEDJTR Risk Management Branch to assist in development of bond level for each coal mine (based upon assessment of level of risk mitigation required for assessed rehabilitation liability) | 10 July 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Meeting held with Risk Assessment Team |
| Undertake assessment of rehabilitation liability for the three LV brown coal mines | 15 July 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Final report delivered |
| Develop bond level position to commence engagement with coal mines | 30 July 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Options analysis and recommendation |
| Brief Minister on intended approach to coal mines for the bond review | 31 July 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Ministerial briefing lodged in MSS |
| Initiate discussions of rehabilitation liability assessment with each coal mine separately and approach to bond review, including timing to increase bond levels | 7 August 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Initiate consultation with each mine representative separately |
| Determine bond levels with representatives for each mine and consider approaches to manage future annual liability reviews for the coal mines | 30 August 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Ministerial briefing lodged in MSS |
| Advise mine representatives of intended revised bonds and timing of introduction – seek comments | 30 September 2015 | <ul style="list-style-type: none"> Project Director | <ul style="list-style-type: none"> Meetings with coal mine representatives and Departmental letter |

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| | | | |
|---|------------------|--|--|
| Finalise bond levels for each brown coal mine | 30 November 2015 | <ul style="list-style-type: none">• Project Director | <ul style="list-style-type: none">• Delegated notice to each tenement holder advising of determined bond amount and any subsequent actions arising |
|---|------------------|--|--|

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5.0 Project Resources

Funding

Funding for the whole project is provided by recurrent funding from each Branch's and Division's budget.

Resourcing (by branch)

| Branch | Person/s | Role/s in project | Project involvement | Est. FTE |
|-------------------------------|--|--|--|-----------------|
| ERR – Executive | Ross McGowan | Project Director | <ul style="list-style-type: none"> Oversight of the Project Issue delegated notices of bond assessments | 0.01 FTE |
| ERR – Sustainable Development | Andrew Radojkovic Sian Harris | Project Manager Project team member | <ul style="list-style-type: none"> Manage Project, including review and modify project plan as required Liaise with stakeholders, including contractors, to ensure deliverables are met within nominated timeframes Prepare Departmental or Ministerial briefings as per project plan Liaise with mine representatives, in collaboration with ERR Operations, to determine current rehabilitation bond amounts | 0.5 FTE |
| ERR – Operations | John Mitas Anne Bignell Neil Allen | Advice to Project team | <ul style="list-style-type: none"> Review assessment of rehabilitation liability provided by consultants and contribute to bond review options Liaise with mine representatives on technical aspects of rehabilitation liabilities Liaise with mine representatives, in collaboration with ERR Sustainable Development, to determine current rehabilitation bond amounts | 0.05 FTE |

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6.0 Stakeholder engagement

The following table analyses the extent to which stakeholders are interested in and can influence this project and the intended approach to engage these stakeholders.

| Stakeholder | Influence H, M, L | Engagement Approach |
|--------------------------------------|----------------------|--|
| 1. Minister for Energy and Resources | H | <ul style="list-style-type: none"> • Consult on bond review findings and path forward |
| 2. Secretary DEDJTR | M | <ul style="list-style-type: none"> • Inform of project and key outcomes |
| 3. Deputy Secretaries | H | <ul style="list-style-type: none"> • Inform of project and key outcomes |
| 4. Executive Director ERR | H | <ul style="list-style-type: none"> • Empower to approve the project plan and issue notice for further bond |
| 5. DEDJTR staff | H | <ul style="list-style-type: none"> • Collaborate on the project administration and delivery |
| 6. Coal mine licensees | H | <ul style="list-style-type: none"> • Involve with the key outcomes |
| 7. Latrobe City Council | L | <ul style="list-style-type: none"> • Inform – changed bond, seek comment (as per MRSD Act) |
| 8. Hazelwood Mine Fire Inquiry | L | <ul style="list-style-type: none"> • Inform of project and key outcomes |

INFORM

DEDJTR will keep you informed.

CONSULT

DEDJTR will keep you informed, listen to and acknowledge concerns and provide feedback on how your input influenced the decision.

INVOLVE

DEDJTR will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how your input influenced the decision.

COLLABORATE

DEDJTR will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

EMPOWER

DEDJTR will implement what you decide.

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7.0 Risk management

| Description | Impact | Likelihood | Overall Risk Score | Risk Mitigation |
|---|--------|------------|--------------------|---|
| Financial: Latrobe Valley coal mines refuse to enter into increased rehabilitation bonds causing the State to continue to bear the shortfall of the liability covered by the rehabilitation bonds held | 4 | 3 | Significant | <ul style="list-style-type: none"> Maintain regular communications with the Latrobe Valley coal mining licensees about the new regulatory requirements Brief the Minister and seek involvement on strategy to increase bonds Brief the Minister and Hazelwood Coal Mine Fire Inquiry Reference Group on progress with regulatory reforms |
| Legal: Licensees become insolvent leaving – a. Significant costs to be borne by the State in carrying out approved rehabilitation works b. Difficult pathways to recover the costs of completing the approved rehabilitation works | 4 | 3 | Significant | <ul style="list-style-type: none"> Explore financial assurance requirements for post-closure rehabilitation (term deposits) appropriateness to be introduced earlier Maintain regular communications with the Latrobe Valley coal mining licensees about their intentions regarding an increased bond |
| Delivery of objectives: Progressive rehabilitation works cease or are delayed if funds allocated by licensees to carry out rehabilitation works are redirected to be locked within a rehabilitation bond | 4 | 2 | Medium | <ul style="list-style-type: none"> Maintain regular communications with the Latrobe Valley coal mining licensees about the rehabilitation works committed to Maintain regular communications with the Latrobe Valley coal mining licensees about alternative approaches to rehabilitate the mines |
| Delivery of objectives: Critical issues requiring urgent response divert resources from the project, impacting on the project deliverables | 3 | 3 | Medium | <ul style="list-style-type: none"> Monitor work program and flag emerging risks. Identify resourcing issues and alternative options. |
| Delivery of objectives: Late decisions / approvals result in missed milestones | 3 | 2 | Medium | <ul style="list-style-type: none"> Brief early and regularly on project deadlines, and impacts of delays and risks. Monitor decision making processes and report issues. |
| Reputation: Insufficient staff and funding is assigned affecting quality or timeliness of delivery of project objectives | 3 | 2 | Medium | <ul style="list-style-type: none"> Forecast resourcing requirements and discuss priority of project with the Project Director. |

| | | Overall Rating | | | | |
|--------------------|--------|-------------------|-------------|--------------|-------------|------------------|
| | Impact | Insignificant (1) | Minor (2) | Moderate (3) | Major (4) | Catastrophic (5) |
| Likelihood | | | | | | |
| Almost certain (5) | Low | Medium | Significant | High | High | |
| Likely (4) | Low | Medium | Significant | Significant | High | |
| 50/50 (3) | Low | Low | Medium | Significant | Significant | |
| Unlikely (2) | Low | Low | Medium | Medium | Significant | |
| Rare (1) | Low | Low | Low | Low | Medium | |

8.0 References

EDIC (2012). *Inquiry into greenfields mineral exploration and project development in Victoria*. Economic Development and Infrastructure Committee. May 2012. Parliamentary Paper No 136 Session 2010–11.

KPMG (2011). *Options for Financial Assurance for Rehabilitation of Mine and Quarry Sites in Victoria*, KPMG, 2011. Report prepared by KPMG for Department of Primary Industries.

Victorian Government (2012). Economic Development and Infrastructure Committee. *Inquiry into greenfields mineral exploration and project development in Victoria*. Government response.

Victorian Government (2014) *Hazelwood Mine Fire Inquiry Report*.

