



Department of Energy, Mines,
Industry Regulation and Safety

Mining Development and Closure Proposals and Approval Statements

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Frequently
Asked
Questions



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1. Mining Development and Closure Proposals

Why is the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) introducing Mining Development and Closure Proposals?

The *Mining Amendment Act 2022* replaces the requirement to submit a Mining Proposal (inclusive of a Mine Closure Plan) with a Mining Development and Closure Proposal (MDCP) at the project approval stage. The move to an MDCP will streamline decision-making, reduce document duplication and improve efficiency for the application and assessment of environmental approvals.

A MDCP removes the duplicate information requirements of a Mining Proposal and Mine Closure Plan and removes the need to prepare two documents at the application stage.

How does a MDCP reduce regulatory duplication with other regulatory frameworks?

DEMIRS acknowledges the importance of reducing duplication with other regulatory frameworks and is committed to continual improvement as a regulator. Wherever practicable, if impacts to DEMIRS environmental factors are assessed and regulated under other regulatory frameworks, DEMIRS will not duplicate this assessment through the MDCP process. It is noted however that some environmental approvals only apply during specific activities or phases of mining (e.g. while a site is operating), and may not be applicable during other phases such as mine closure or care and maintenance. In these instances, the MDCP would need to capture these phases not regulated under other frameworks.

Where an applicant can demonstrate in the 'Legislative Framework' section of an MDCP that impacts to a DEMIRS environmental factor has been assessed and regulated under another regulatory framework, assessment of this impact will not be duplicated via the MDCP process.

The MDCP Guideline for Preparing Mining Development and Closure Proposals document provides specific guidance for activities assessed under Part IV of the *Environmental Protection Act 1986* and those that require a Native Vegetation Clearing Permit under Part V of the *Environmental Protection Act 1986*.

What will happen to the current statutory guidelines for mining proposals?

The *Mining Amendment Act 2022* removes the need for statutory guidelines to stipulate the form and content of mining proposals and mine closure plans. Rather, the content requirements of MDCPs will be prescribed in the Mining Regulations. The Mining Regulations are being developed in conjunction with this MDCP guideline.

The Mining Regulations will prescribe the content requirements of a MDCP at a high level, with the guideline providing the detailed guidance on how to meet these requirements in a MDCP submission. The Mining Regulations will be released for consultation once available.

2. Mine Closure Plans

Do tenement holders still need to submit stand-alone Mine Closure Plans (MCP)?

MDCPs function as a targeted application document that captures information required for assessment of proposed mining activities at the approval stage. As DEMIRS is a key regulator of rehabilitation and mine closure, a MDCP needs to include details on mine closure in order to ensure closure has been appropriately considered at the mining approval stage. A MCP is no longer required at the approval stage and is to be submitted post approval.

It is a requirement of the Mining Act that standalone MCPs will still be submitted to DEMIRS in order to demonstrate that the mining operation is tracking towards successful closure. The due date for submission of MCP will be specified on the Approvals Statements issued following assessment of the MDCP. The review date for a MCP will be based on factors such as expected life of mine, project status and number of knowledge gaps remaining. The level of information required in a MCP will be reflective of the stage of mine development with detail increasing as the mine moves towards closure.

Will the existing MCP guidance be updated?

In conjunction with development of the MDCP framework, DEMIRS is reviewing the content requirement of standalone MCPs to ensure there is alignment between MDCPs and MCPs and duplication is reduced as far as practicable. Revised MCP guidance is anticipated to be released for stakeholder review shortly after release of the MDCP Guidance.

Consistent with MDCPs, the content requirements of MCPs will also be prescribed in the Mining Regulations.

What level of detail of closure information is required in a MDCP compared to a MCP?

A guide to the level of detail required in a MDCP compared to a MCP is provided in Attachment 2.

3. Approvals Statement

What is an Approvals Statement?

Following assessment of a MDCP, should the proposed activities be approved, an Approvals Statement will be issued to the tenement holder. The Approvals Statement defines the scope and limits of the mining activities approved, along with any relevant conditions, closure outcomes and date for submission of the next MCP.

The Approvals Statement provides a single source to identify all approved mining activities across a suite of tenements, their corresponding approval conditions, closure outcomes for the mining operation, and the review date for the MCP. Tenement holders will have one statement that clearly sets the parameters of approval, resulting in clarity of the approved activities and conditions. This creates efficiencies both for the tenement holders managing compliance with approvals, and DEMIRS when monitoring compliance.

What type of information will be recorded on an Approvals Statement?

Section 103AP of the (amended) Mining Act sets out that the following information must be recorded on an Approvals Statement:

- approval given to an activity proposed in a mining development and closure proposal;
- any conditions attached to the approval;
- any relevant information (note: the Act defines any relevant information as information “*relevant to the nature and extent of the activity*”);
- the closure outcomes; and
- the date by which a mine closure plan must be lodged.

What will an Approvals Statement look like?

To demonstrate how information from the MDCP translates into the Approvals Statement, an example version is provided in Attachment 1.

Please note, this example has been provided for context only, it is the final approvals instrument issued by DEMIRS and does not need to be completed by the applicant. The final form of the Approvals Statement will be further refined during development of the MDCP framework and the accompanying online system.

Will applicants have the ability to review the Approvals Statement prior to it being issued?

To afford procedural fairness, tenement holders will be provided with an opportunity to review their Approvals Statement prior to it being formally issued. Once formally issued, Approval Statements will be made publicly available per section 103AP(3) of the Mining Act.

What conditions will be included on an Approvals Statement?

Consistent with DEMIRS’ existing risk-based/outcomes-based frameworks, and in line with DEMIRS’ Environmental Objectives Policy, a MDCP must include environmental and closure outcomes that will be achieved during the life of the project and at closure.

Environmental outcomes are used to establish the acceptable level of impact that must not be exceeded, or the level of protection/performance that must be achieved, for the site to be compliant throughout mine life, while closure outcomes establish the results that must be achieved at the end of the mine life to demonstrate that the land has been successfully rehabilitated and is able to support the agreed post mining land use.

Should activities proposed within a MDCP be approved, the environmental outcomes will function as a condition of approval and will be recorded on the Approval Statement as a ‘Condition of Approval’. Approved closure outcomes will be recorded on the Approval Statement under a separate ‘Closure Outcome’ heading.

To promote consistency and efficiency in document preparation and assessment, DEMIRS has developed a list of standard environmental and closure outcomes which can broadly be applied to many mining operations, though applicants will also have the opportunity to develop bespoke environmental or closure outcomes where the standard outcomes are not appropriate for their operation. Bespoke outcomes will also be recorded on the Approvals statement as a condition.

In addition, DEMIRS currently has a list of standard environmental conditions that are applied when a mining proposal or mine closure plan is approved. Some types of environmental conditions are also imposed at the time of tenement grant. As much as possible DEMIRS is aiming for the standard outcomes to replace many of these conditions; however it should be noted that some standard operational conditions are planned to remain in place and may be recorded on the Approvals Statement. Examples include conditions requiring submission of an annual environmental report.

Conditions recorded on an approvals statement has the same legal standing as a tenement condition.

How does a tenement holder amend information recorded on an Approvals Statement?

For operations with an existing Approvals Statement, a new MDCP will need to be submitted to DEMIRS for assessment in the following circumstances:

- When new mining activities are proposed or when changes, expansions or alterations are proposed to mining activities beyond what is recorded on the Approvals Statement.
- When any mining activities are proposed outside of the activity envelope recorded on the Approvals Statement.
- When any changes are proposed to the tenements recorded on the Approvals Statement.
- To amend a closure outcome.

Where a mining operation has an existing Approvals Statement, the MDCP submitted only needs to provide details on the aspects for which approval is being sought (i.e., the expansion or additions to the mining operation).

The MDCP guidance document has been designed to provide guidance on the information required within a MDCP when seeking approval for amendments to a mining operation with an existing Approvals Statement. Under each section of the guideline, there is a subheading for “amendments” which provides specific guidance on the level of detail that should be presented in the MDCP when seeking an amendment. This is intended to ensure all the relevant information is provided, to improve efficiency of assessment and simplify the process for amendments to existing operations.

Following assessment of the MDCP, the Approvals Statement will be updated to reflect the changes and the amended statement provided to the tenement holder(s). The Approvals Statement will be updated over the life of mine to reflect the approved amendments/updates to the mining operation.

4. Reporting and compliance

How will DEMIRS monitor compliance with an Approvals Statement?

As a condition of approval, tenement holders will need to provide an environmental report to DEMIRS demonstrating compliance with environmental outcomes/conditions recorded on the relevant Approvals Statement(s).

All Approvals Statements will contain a standard condition requiring tenement holders to notify DEMIRS of any reportable environmental incidents within 24 hours of detection. Failure to notify DEMIRS of a reportable incident constitutes a breach of conditions and renders the tenement(s) liable for forfeiture under the Mining Act. A reportable environmental incident is defined as:

- an incident that breaches any environmental outcome/condition recorded on the relevant Approvals Statement; and/or
- an incident arising from mining activities that has caused or has the potential to cause environmental harm or injury to land.

If the incident needs to be reported to the Department of Water and Environmental Regulation under the *Environmental Protection Act 1986* (i.e. via a section 72 notification) then this can be used as a notification for DEMIRS by copying the relevant Team Leader into the report.

For further guidance on compliance reporting, please see DEMIRS 'Guidance Note on Environmental Non-compliance and Incident Reporting. This document will be updated to incorporate the MDCP framework.

5. Transition

How will existing, undetermined mining proposals (i.e. those awaiting a decision by DEMIRS) be dealt with once the MDCP framework commences?

Any applications that are lodged prior to the commencement of the MDCP framework but are still under assessment and awaiting a decision by DEMIRS at the time of commencement, will be taken to be a Mining Development and Closure Proposal and an Approvals Statement will be issued following approval.

The mine closure plan in the application will be taken to be the closure information required to be included in a Mining Development and Closure Proposal under the Mining Act requirements.

Do tenement holders need to submit a MDCP for existing, approved activities?

Tenement holders do not need to submit a MDCP to seek approval for existing activities. From the date of commencement all previously approved mining proposals (including Notice of Intent) are taken to be a MDCP.

Do tenement holders need to transition an existing, approved operation onto an Approvals Statement?

There is no requirement for tenement holders to transition an entire mining operation to an Approvals Statement. Tenement holders can submit a MDCP for only new mining activities and will be issued an Approvals Statement that relates specifically to those new mining activities.

Tenement holders will need to ensure they have robust compliance systems in place to track approval requirements across their broader mining operation.

Can DEMIRS issue an Approvals Statement for previously approved activities?

During the transition period (10 years with the possibility for extension by the Minister for Mines and Petroleum), the Minister can issue an Approvals Statement for a previously approved mining operation without submission of a MDCP. The simplicity of administering one framework is beneficial for government, industry, and the community, and therefore DEMIRS is looking at how to use this time to facilitate the transition of projects across to the new framework.

The department's overarching goal is to have all sites regulated under the new framework to improve efficiency and consistency of assessments and compliance activities.

How will transition to the MDCP/Approvals Statement framework work for sites that have already transitioned to the 2016–2020 Mining Proposal Framework?

DEMIRS acknowledges the effort, time, and process many tenement holders have been through to transition their mining operations to the risk and outcomes-based framework under the 2016–2020 Mining Proposal Guidelines. Given these projects are already operating under a risk/outcome-based framework, DEMIRS anticipates that it should be reasonably straightforward to translate these approvals into an Approvals Statement format and will look to develop a process so this transition can occur as efficiently as possible.

6. Small operations

Will a MDCP be required for small mining operations?

In order to meet the requirements of the Mining Act, a MDCP is required for all mining operations. DEMIRS will develop dedicated form to support applicants in lodging MDCPs for small mining operations. The form will be designed to assist applicants in providing a level of detail that is commensurate to the scale and risk of small mining operations, whilst still meeting the requirements of the Mining Act and Regulations. The small operations MDCP form will be subject to separate stakeholder consultation.

Has DEMIRS changed the criteria for what constitutes a small mining operation?

Developing the MDCP framework has given DEMIRS an opportunity to review its current criteria for small mining operations. The following revised small operations criteria has been included in the MDCP Guidance Document for stakeholder consideration and feedback:

DEMIRS considers a small mining operation to be defined as:

1. scraping and detecting, including dry processing; and/or
2. excavations no larger than 40,000 m³, and/or
3. activities required to support small mining operations (e.g., camp, laydown, processing area).

DEMIRS generally considers that a small mining operation does not involve:

1. the mining of uranium, mineral sands, or rare earth elements; and/or
2. excavations that intersect groundwater; and/or
3. permanent landforms above the natural surface.

ATTACHMENT 1. EXAMPLE APPROVALS STATEMENT TEMPLATE

Approvals Statement XXXX/XX

1 Approvals summary

This Approvals Statement is issued under section 103AP of the <i>Mining Act 1978</i> (MA)	
Approvals Statement Number	
Mining Operation	
Project Description	
Operator	
Tenement(s)	Tenement Holder

2 Nature and extent of approved mining activities

All mining activities described below must be contained within the Activity Envelope as presented in Schedule 1
 Spatial data depicting the Activity Envelope is held by the Department of Energy, Mines, Industry Regulation and Safety.
 File Number:
 Object ID:

Tenement	Total Activity Area (ha)	Approved Activities

Mining Activity Reference	Activity Area (ha) per tenement	Key Design Parameters

3 Conditions of Approval

The mining operation must be constructed, operated and closed to meet the below outcomes and conditions:

Standard environmental conditions

#	
#	

#	
#	

Site specific conditions

#	
#	
#	
#	

Reporting and other conditions

Non-Compliance Reporting	
#	
#	
Compliance Reporting	
#	
#	
#	
#	

4 Closure outcomes

#	
#	
#	
#	
Proposed Post Mining Land Use	
Mine Closure Plan submission date	

4 Decision

Issue Date	
Signed	

Schedule 1: Spatial Extent

Attachment 2: Content requirements for MDCPs compared to MCPs

Aspect/Content	MDCP	MCP	MDCP for amendment to Approvals Statement	MCP revision
Proposal description	Description of the proposed operation including activity envelope within which all activities will occur, maximum activity areas and characteristics and design of key mine activities	Brief description of the operations to provide context to the document.	Description of the additional activities/changes to operations Where appropriated updated activity envelope and activity details provided.	Updated to detail current status of the site.
Legislative framework/ identification of closure obligations and commitments	Details of environmental approvals relevant to the operations.	List of environmental approvals relevant to closure of operations.	List of environmental approvals relevant to additional activities/changes to operation.	Updated with additional closure obligations and commitments over life of mine.
Land use and stakeholder engagement	Details pre mining land use, proposed posting mining land use and stakeholder engagement undertaken prior to commencement of operations.	Details on proposed post mining land use. Register of stakeholder engagement undertaken in relation to mine closure.	Details additional stakeholder engagement undertaken in relation to the additional activities/changes to operation and where relevant changes to post mining land use.	Post mining land use further refined as stakeholder engagement progresses. Continuously updated to reflect ongoing stakeholder engagement undertaken in relation to mine closure.
Baseline data and analysis	Description of baseline information for the project and implications for environmental risk assessment.	Summary of baseline available for the site and implications for closure.	Description of baseline information to support additional activities/changes to operation.	Continuously update to reflect information gathered about the site through routine monitoring.
Risk assessment and management	Standardised environmental risk assessment for all phases of mine life.	Closure risk assessment using standardised framework.	Standardised environmental risk assessment for additional activities/changes to operation.	Continuously reviewed over the life of mine.
Environmental and closure outcomes, criteria and monitoring	Environmental and closure outcomes presented with site specific performance and completion criteria.	Closure outcomes presented with site specific completion criteria.	Environmental and closure outcomes presented with site specific performance and completion criteria.	Completion criteria further refined.
Closure implementation	Includes: <ul style="list-style-type: none"> An indicative closure work schedule for achieving closure outcomes. Identified knowledge gaps and schedule for addressing them. Closure designs for key landforms Rehabilitation material balance Contingencies for early closure or suspension of operations 	Includes: <ul style="list-style-type: none"> closure work schedule for achieving closure outcomes. Research and trials planned Progressive Rehabilitation Early closure or suspension of operations to C&M Decommissioning schedule Monitoring and maintenance Financial provisioning 	Description of closure tasks for additional activities/changes to operation.	Further refined closure tasks and rehabilitation and decommissioning schedule.