



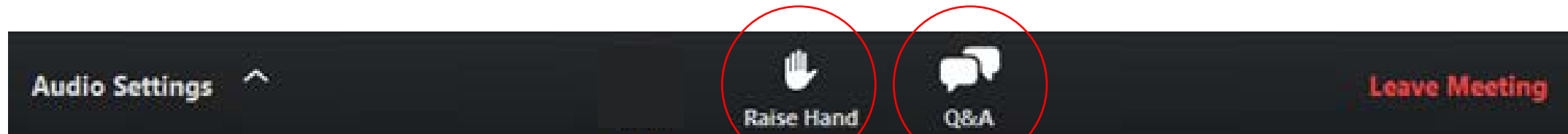
Regional  
NSW

# Operational rehabilitation reforms

15 October 2020

# Online session protocols

- Please note this webinar is being recorded.
- During the presentation attendees will be on mute.
- Participants may use the Q&A window to ask questions (remember this is an open forum so please be respectful and use appropriate language). Simply click on the Q&A icon in the menu and type in your message.
- During the **discussion session** participants may **raise their hand** if they wish to speak. We will then 'unmute' you and you will be heard by the webinar attendees (you will need to have your computer audio enabled to do this).
- If you are calling into the webinar, you will need to press \*9 on your keypad to raise your hand.



Raise hand to ask question in discussion session

Use Q&A during presentation

# Agenda

1. Overview and background for reform
2. New rehabilitation obligations
3. Implementation and transitional arrangements
4. Consultation process
5. Questions

# Overview and background



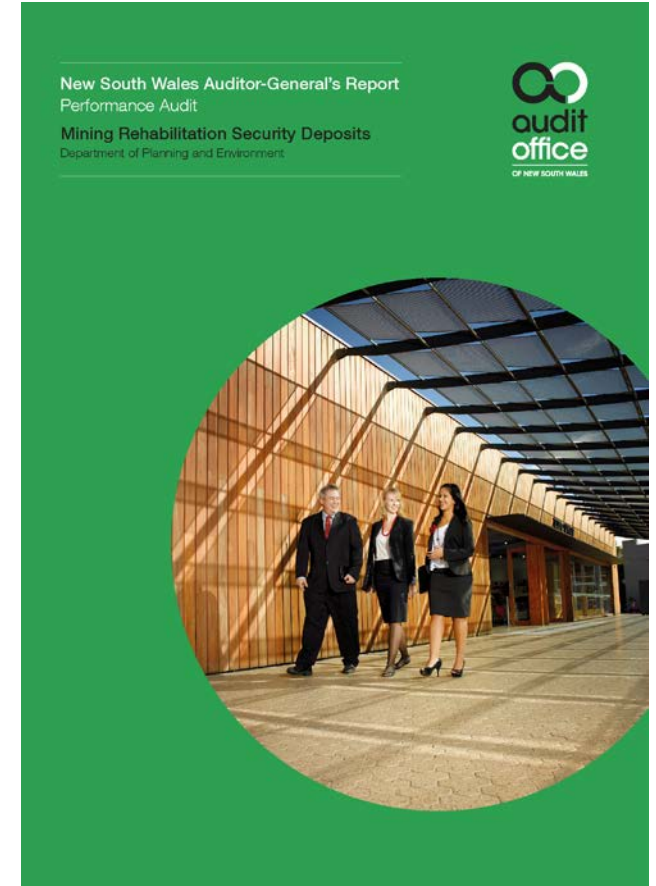
Regional  
NSW

# Rehabilitation reform objectives

- Auditor-General's report *Mining rehabilitation security deposits*
- Reforms address two key Auditor-General recommendations:
  - improve the quality of rehabilitation and closure plans
  - enhance oversight of mine rehabilitation
- Reform objective is outcomes-focused and risk-based obligations for mine rehabilitation
- Greater transparency, enhanced regulatory oversight



Regional  
NSW



# Rehabilitation reform objectives

- Lease holders must:
  - achieve final land use
  - plan and rehab progressively
  - report on progress
- Approach standardises rehabilitation obligations for all mining leases
- Will result in streamlined title instruments
- Reduction in red tape for lease holders and government



# New rehabilitation obligations



Regional  
NSW

# Policy intent

- NSW Resources Regulator's role is to approve and regulate the achievement of Rehabilitation Outcomes (Rehabilitation Objectives; Rehabilitation Completion Criteria; and Final Landform and Rehabilitation Plan)
- Rehabilitation Outcomes are what a lease holder must achieve to demonstrate that rehabilitation of land and water disturbed by mining is safe and stable and meets the rehabilitation obligations of the development consent
- Regulatory objective is to require progressive rehabilitation while allowing flexibility for methodology and timing to ultimately achieve the rehabilitation outcomes
- Risk-based regulatory approach that is tailored to account for “Large Mines” and “Small Mines”
- A lease holder is required to develop a strategic plan for how it is going to identify and achieve its Rehabilitation Outcomes (Rehabilitation Management Plan)



# Policy intent

- A lease holder is required to submit an Annual Rehabilitation Report & Forward Program
  - Forward Program outlines the tactical approach to achieving the Rehabilitation Outcomes in a progressive manner
  - Annual Rehabilitation Report outlines progress towards achieving the Forward Program
- Mine Rehabilitation Portal (GIS spatial data) will provide greater transparency in tracking rehabilitation progress, which will be available to public via NSW Government's SEED Portal
- Reforms are designed to shift Regulator's approach to a higher proportion of proactive work, with a key focus on ensuring industry is effectively implementing rehabilitation practices
- The Regulator has developed a Targeted Assessment Program focusing on industry's effective implementation of critical controls to ensure rehabilitation success



Regional  
NSW

# Operational Rehabilitation Reforms Framework

External



Internal



Regional NSW

# Key components

- Mining Amendment (Standard Conditions of Mining Leases – Rehabilitation) Regulation 2020
- *Form and Way: Rehabilitation Management Plans (large mines)*
- *Form and Way: Annual Rehabilitation Report and Forward Program (small mines)*
- *Form and Way: Annual Rehabilitation Report and Forward Program (large mines)*
- *Form and Way: Rehabilitation Objectives and Rehabilitation Completion Criteria for Small Mines*
- *Form and Way: Rehabilitation Objectives, Rehabilitation Completion Criteria and Final Landform and Rehabilitation Plan for Large Mines*
- Additional 6 Guidelines to support industry to fulfil obligations – released following consultation



Regional  
NSW

# Protection of environment

**Part 2, Clause 2:** *The lease holder must take all reasonable measures to prevent or, if that is not reasonably practicable, to minimise, harm to the environment..*

- Consistent with the objects of the Act
- Where the need arises, provides the basis for statutory directions to be issued to implement specific measures to minimise harm to the environment
- Provides the basis for potential compliance action where environmental harm may occur
- Noting similar obligations may exist under the development consent or environment protection licence for a mine, the Regulator will adopt a whole-of-government approach to determining regulatory approach

# Rehabilitation

**Part 3, Clause 3** – *Lease holder to rehabilitate as soon as reasonably practicable after disturbance*

**Part 3, Clause 4** – *Lease holder to achieve approved rehabilitation outcomes and final land use*

- Strengthens obligations in regards to both the spatial progression and quality of rehabilitation
- Greater emphasis on ensuring that a lease holder is undertaking measures to ensure that rehabilitation is progressing through each phase to achieve rehabilitation outcomes
- Lease holder will be required to identify and record any reasonably foreseeable hazard that presents a risk to the ability to progressively rehabilitate (clause 4(2))

# Rehabilitation

- Provide flexibility to lease holder to adjust rehabilitation activities to account for factors that may influence schedule such as drought, unseasonal conditions, changed mining conditions
- The Forward Program submitted to the Regulator will be required to demonstrate how progressive rehabilitation will be achieved
- The Regulator will be focusing on ensuring that a lease holder is undertaking rehabilitation as soon as reasonably practicable, including ensuring that rehabilitation quality is tracking through the phases towards meeting the rehabilitation objectives and completion criteria



Regional  
NSW

# Rehabilitation risk assessment

## Part 4, Clause 5 – Rehabilitation Risk Assessment

- Lease holder will be required to conduct and maintain a rehabilitation risk assessment
- Risk assessment must be undertaken:
  - before preparing a RMP for large mines under clause 6 or submitting rehabilitation objectives for approval under clause 7
  - whenever a hazard is identified under clause 4(2) – as soon as reasonably practicable after it is identified
  - whenever directed to do so in writing by the Secretary
- Risk assessment underpins a site specific approach to implementing rehabilitation



Regional  
NSW

# Rehabilitation risk assessment

## Part 4, Clause 5 – Rehabilitation Risk Assessment cont..

- Risk assessment must identify, assess and evaluate the risks as well as associated measures that need to be implemented to achieve the rehabilitation outcomes
- Risk control measures identified by risk assessment must be incorporated in the Forward Program and for large mines, the Rehabilitation Management Plan
- Risk assessment is not submitted to or approved by the Regulator
- Lease holder will need to maintain risk assessment as a record, which will be required to be provided to the Regulator as part of its inspection program – focus of the Regulator’s Targeted Assessment Programs
- Guideline developed to assist industry in conducting a rehabilitation risk assessment



# Rehabilitation Management Plan

## Part 4, Clause 6 – Rehabilitation Management Plan

- Lease holder will be required to develop, implement and publish a Rehabilitation Management Plan for large mines only, subject to transitional arrangements
- Must be prepared in accordance with the Form and Way: Rehabilitation Management Plans (large mines)
- Essentially replaces the Mining Operations Plan
- A Rehabilitation Management plan is not submitted to the Regulator
- Must be amended to include any changes to rehabilitation outcomes, risk controls as identified by the rehabilitation risk assessment or as directed by the Secretary

# Rehabilitation Management Plan

## Part 4, Clause 6 – Rehabilitation Management Plan cont..

- Rehabilitation Management Plan must include:
  - Copy of the rehabilitation outcomes
  - A summary of the rehabilitation risks
  - Life of mine rehabilitation schedule
  - Controls and methods to be implemented throughout each of the rehabilitation phases
  - Rehabilitation quality assurance process
  - Rehabilitation monitoring program
  - Intervention and adaptive management



Regional  
NSW

# Rehabilitation outcomes

## Part 4, Clause 7 – Lease holder to prepare rehabilitation outcomes

- A lease holder is required to submit Rehabilitation Objectives, Rehabilitation Completion Criteria and (for large mines only) a Final Landform & Rehabilitation Plan for approval by the Regulator
- Rehabilitation outcomes must be consistent with any relevant development consent
- Rehabilitation outcomes must be prepared in accordance with the following:
  - *Form and Way: Rehabilitation Objectives and Rehabilitation Completion Criteria for Small Mines*
  - *Form and Way: Rehabilitation Objectives, Rehabilitation Completion Criteria and Final Landform and Rehabilitation Plan for Large Mines*



Regional  
NSW

# Rehabilitation outcomes

## Part 4, Clause 7 – Lease holder to prepare rehabilitation outcomes cont..

- For large mines, lease holders must submit all spatial data themes associated with Final Landform & Rehabilitation Plan to the Mine Rehabilitation Portal
- Guideline developed to assist industry with the preparation rehabilitation objectives and rehabilitation completion criteria
- Rehabilitation Objectives and Final Landform & Rehabilitation Plan (for large mines) are essentially submitted upfront for approval by the Regulator
- Rehabilitation Completion Criteria to be submitted to the Regulator for approval at the latest where it is anticipated that rehabilitation will be completed for the whole or part of the mining area in the 3-year period of a “relevant forward program”



Regional  
NSW

# Annual Rehabilitation Report & Forward Program

## Part 5, Clause 8 – Conditions relating to annual rehabilitation report and forward program (ARRFP)

- Must be submitted in accordance with:
  - *Form and Way: Annual Rehabilitation Report and Forward Program (small mines)*
  - *Form and Way: Annual Rehabilitation Report and Forward Program (large mines)*
- Submission of first ARRFP subject to transitional arrangements as specified by the draft Regulation
- Subsequent ARRFP submitted annually within 60 days of the last day of the annual reporting period - not approved by the Regulator
- Flexibility to align reporting period with other statutory reporting periods (e.g. Annual Review under SSD consent)



Regional  
NSW

# Annual Rehabilitation Report & Forward Program

## Part 5, Clause 8 – Conditions relating to annual rehabilitation report and forward program (ARRFP)

- Must be published within 14 days after the submission
- For large mines, lease holders must submit all spatial data themes associated with ARRFP to the Mine Rehabilitation Portal
- Forward Program details a 3-yearly forecast to more closely align with mine planning systems and requires rehabilitation to be undertaken as soon as reasonably practicable
- Annual Rehabilitation Report details:
  - progress against previous Forward Program and justification for any variations;
  - how rehabilitation is progressing towards meeting rehabilitation outcomes
- Provides a standard set of rehabilitation statistics and key performance indicators



Regional  
NSW

# Other key components of Draft Regulation

- Part 6, Clause 9 – conditions relating to when lease holder may amend approved rehabilitation outcomes and submitted forward program
- Part 7, Clause 10 – lease holder to create and maintain records to demonstrate compliance as well as to assist in the retention of knowledge on site in regards to rehabilitation practices – Guideline developed to assist industry
- Part 8, Clause 11 – lease holder to report to Minister on non-compliance
- Part 9, Clause 12 – lease holder to notify Secretary of lodgement of application for or to modify development consent (excludes State Significant Development projects)
- Part 9, Clause 13 – lease holder to provide Secretary with details of nominated contact person

# New obligations under the Regulation Amendment

## GENERAL REQUIREMENTS

- Leaseholder to prevent or minimise harm to the environment
- Leaseholder to prepare annual rehabilitation report
- Leaseholder to create and maintain records demonstrating compliance
- Leaseholder to report to Secretary on non-compliance
- Leaseholder must notify Secretary of lodgement of application to modify development consent
- Leaseholder must provide Secretary with details of nominated contact person.

## REQUIREMENTS BEFORE FIRST DISTURBANCE AND ONGOING

*(or, if first disturbance has already occurred, on the relevant commencement date, within 30 days of the commencement date)*

- Leaseholder to prepare rehabilitation objectives and completion criteria and final landform and rehabilitation plan
- Leaseholder to conduct rehabilitation risk assessment
- Leaseholder to prepare rehabilitation management plan (for large mines)
- Leaseholder to prepare forward program.

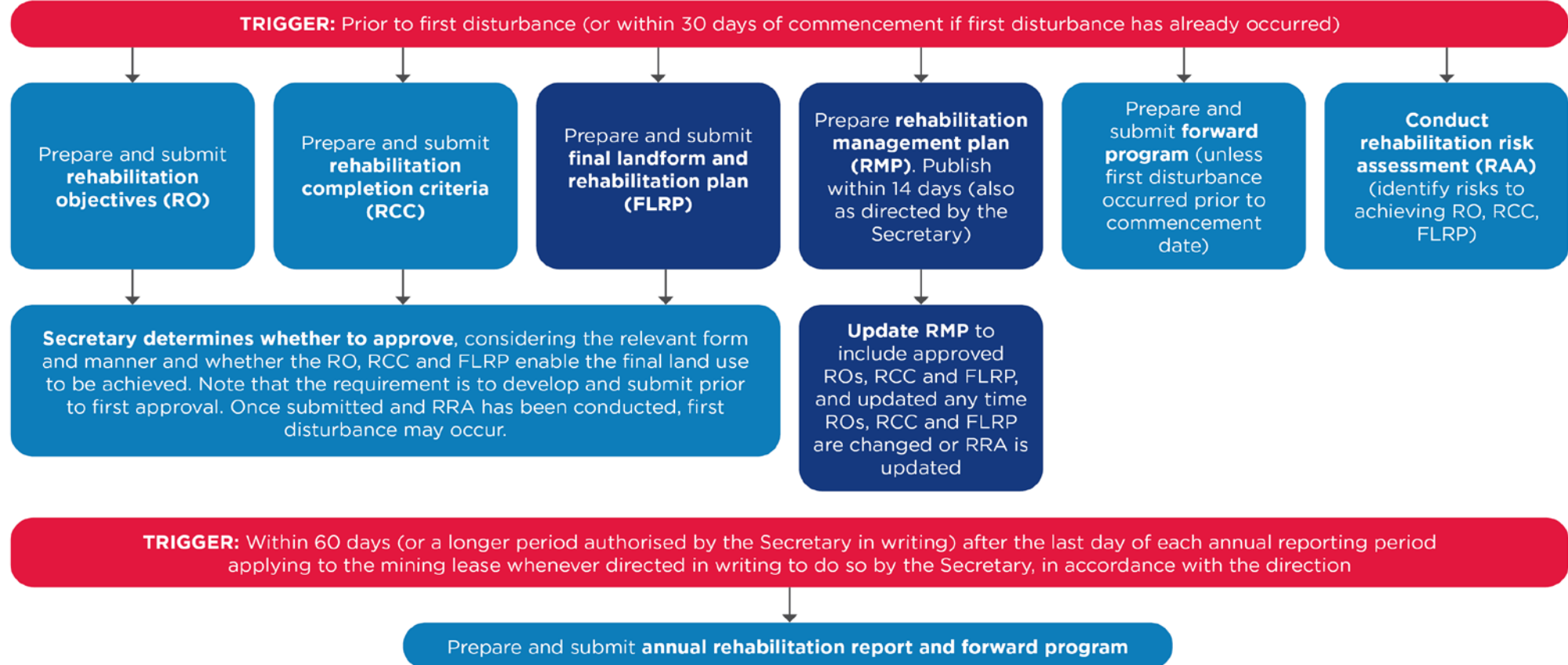
## REQUIREMENTS AFTER FIRST DISTURBANCE AND ONGOING

- Leaseholder to rehabilitate mining area
- Leaseholder must achieve ROs and RCC and (for large mines) FLRP.

### KEY

**BLUE** - All mines

**NAVY** - Large mines only





# Implementation and transitional arrangements



Regional  
NSW

# Implementation

- Streamlined mining lease instrument for all mines in NSW by 'relevant date'
- 'Relevant date' means:
  - 12 months from Regulation commencement date for large mines;
  - 24 months for small mines
- Conditions in varied instrument effective on 'relevant date'
- For any grants between commencement date and 'relevant date', a Mining Lease with 'interim' conditions will be issued
- 'Interim' conditions will reflect the conditions of Regulation



Regional  
NSW

# Variation Process to streamline conditions

Variation process prescribed in Schedule 1B Clause 12 of *Mining Act 1992*.

- Identify whether mine is a large mine, small mine and/or part of a complex
- Identify 'special conditions' to remain, remove outdated/inconsistent ones
- Apply standard conditions (e.g. security condition, landholder notification)
- Issue draft revised instrument and invite submissions from lease holder
- Decision-maker to consider submissions and make decision
- Issue the streamlined instrument to the lease holder

# Benefits of a streamlined instrument

- Streamlined instrument <5 standard conditions + special conditions (if applicable)
- Removal of conditions which:
  - duplicate, or are inconsistent with, conditions in regulation
  - overlap with other regulatory mechanisms (such as development consent, or EPL)
  - are outdated
- Focused and SMART
- Same conditions for all mines across NSW (except for special conditions)
  - reduced administrative burden of monitoring compliance



Regional  
NSW

# Overview



Regional  
NSW

# Reform process

- Regulation amendment process:
  - public consultation (at least 6 weeks)
  - key stakeholder group information sessions
- Lease holders and community can have their say:
  - draft regulation
  - form and way
  - FAQs and factsheet
- The NSW Government will consider all feedback on draft regulation
- 12-month and 24-month timeframe for commencement when regulation finalised



# Questions



Regional  
NSW

Reminder for callers: please press \*9 on your keypad to raise your hand.

# Feedback

- Thank you for your attendance and participation.
- To assist us with continuous improvement, please use the QR code here to complete our feedback survey or when you leave the webinar, you will be directed to the survey page.



Regional  
NSW





Regional  
NSW

# NSW Resources Regulator and Mining Exploration and Geoscience

[rr.feedback@planning.nsw.gov.au](mailto:rr.feedback@planning.nsw.gov.au)