

Ensuring Compliance with Conditions on Mining – Follow-up

Report 20: November 2014

Background and Objective

The natural resources industry is vital to Western Australia's economy. An important part of regulating the sector is to minimise and where possible eliminate the risks attached to mining, including State financial liability for damage caused by miners. This involves putting environmental, financial and other conditions on operators that want to access the State's minerals. One of the key challenges to government is to balance the need to protect the State with the desire to provide reasonable and timely access for industry. In September 2011, we tabled a report titled *Ensuring Compliance with Conditions on Mining* which assessed management activity at five key agencies. Our purpose in this follow-up audit was to assess how well the Department of Mines and Petroleum (DMP), the Department of Aboriginal Affairs (DAA), the Department of State Development (DSD) and the Department of Environment Regulation (DER) had addressed the issues we found in 2011.

Conclusion

There has been significant improvement by government and agencies in addressing the issues we identified in 2011, although it will take some time before the full benefits are seen. There is more clarity about the roles and responsibilities of various agencies within what remains a complex set of legislative arrangements. Establishing the Mining Rehabilitation Fund has decreased the State's exposure to liabilities, and will help manage the risks posed by legacy mines, although it will take some time to build comprehensive coverage. However, the Fund does not provide a single financial protection system against rehabilitation failures for mines operating under the 29 mining State Agreements. These miners can opt in to the Fund but are not required to and thus far none have done so. Including State Agreement mines would increase the money in the Fund and the scope to manage legacy sites, but would require case-by-case assessment of risks and benefits to the State.



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Improved assessment, inspection and reporting processes mean that DMP has greater capacity to assess whether conditions placed on mines are being met. The centralised, publicly available register of mining offsets improves transparency and makes it easier to track and ensure the fulfilment of offset requirements. DAA now has a sound approach to monitoring and inspecting how mine sites comply with Aboriginal heritage requirements.

Recommendations

We recommended that:

- Government and agencies should work to bring State Agreement operators into the Mining Rehabilitation Fund under the same arrangements as miners operating under the *Mining Act 1978*, where this does not increase financial risk to the State. This would increase the revenue available to rehabilitate current and historical sites. It would also improve the data available to the State on mining activity. This process could involve significant negotiation with operators, and redrafting of individual State Agreements.
- DMP and DSD should finalise the protocol on shared responsibilities for monitoring State Agreements by February 2015.
- DMP should finalise policies and procedures for assessing abandoned mines by June 2015. This will ensure that proceeds from the Fund can be applied to address legacy mines.
- DER should identify opportunities to increase the information that is publicly accessible through the offsets register on the results of offsets. This could include collating details on what funds have been collected, how they have been used and what land has been added to the public estate.
- DAA should ensure it implements the online AHELP system across the whole life of permits issued under the *Aboriginal Heritage Act 1972*. This will give better oversight of all mining and other activities near important heritage sites. It will involve changing some of its existing work practices.



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