

## FREQUENTLY ASKED QUESTIONS

# Suspension of mining operations policy

### When does the policy apply?

This policy is effective from the date of publication on the MEG website and applies to mining lease holders that want to suspend mining operations. For lease holders who have already received consent, a transition period will apply. This policy does not apply to mining leases for ancillary mining activity or activities only.

### Why is consent needed when a lease holder chooses to suspend mining operations for economic or other reasons?

Clause 7A(1) of Schedule 1B to the *Mining Act 1992* (the Act) requires that 'A mining lease is subject to a condition that the holder of the lease may suspend mining operations in the mining area only if the operations are suspended in accordance with the written consent of the decision maker'.

The NSW Government expects the development of the State's mineral resources to deliver a beneficial financial return to the people of NSW. This includes mining lease holders facilitating the timely and responsible development of the resource they have been granted the approval to extract. Whilst a suspension of mining operations consent is in place rehabilitation, environmental monitoring and maintenance activities at the site must continue under the conditions of the lease.

### What are the extenuating factors considered when a lease holder seeks to suspend mining operations?

The Department considers the following as factors for the voluntary and temporary suspension of mining operations:

- protracted and complex land access matters
- unforeseen events (eg: 'force majeure' events)
- the mining lease in question is part of a project and suspension is necessary because of matters impacting the project as a whole.
- significant commercial or economic factors
- unanticipated delays in approvals
- a lawful direction or order.

## **Can the notification or consent for the suspension of mining operations include suspension of rehabilitation obligations?**

A consent to suspend mining operations is not a consent to suspend the rehabilitation obligations which also apply under Schedule 8A to the Mining Regulation.

The Department may also consent to a suspension of rehabilitation obligations if it is not reasonably practicable for the rehabilitation activities to be undertaken during the suspension of mining operations. If rehabilitation obligations are impacted by the suspension, the rehabilitation management plan and forward program must be updated to show how progressive rehabilitation obligations will be managed during the suspension of mining operations.

## **Does this policy apply to a direction to suspend mining operations?**

No. An inspector can issue a notice to suspend mining operations as a result of actual or potential environmental or safety concerns. This is different to a voluntary request to suspend mining operations.

## **Does this policy apply to all mining operations?**

Yes, the policy applies to all mining operations. It does not apply to mining leases for ancillary mining activity or activities.

## **Is there a cost for the application?**

There is no fee for notification to suspend mining operations. However, there may be charges for applications seeking consent to suspend mining operations for up to three years and to suspend mining operations for cumulative periods in excess of three years. If applicable, fees for applications will be set out in the Regulations.

Should the Department need to undertake further studies, such as commercial viability, resource assessments and site inspections, fees may be charged to the applicant on a cost recovery basis.

## **How long can a lease holder suspend operations?**

The maximum length of time that the Department will grant a single consent to suspend is three years (which includes any period of up to 12 months under the notification provisions above). After three years, a lease may apply for a further period of suspension. In this case, the Department may undertake a review to determine whether to grant a subsequent suspension.

## **How does this relate to 'care and maintenance'?**

The term 'care and maintenance' is used colloquially to refer to a mine that is no longer extracting the resource and where the mine site is being managed to ensure it remains safe and stable. The Act does not contain a concept of 'care and maintenance'. 'Care and maintenance' is a term that may be used to describe a suspension of mining operations under the Act. The policy relates to the obligation of a lease holder when it temporarily and voluntarily suspends mining operations under Clause 7A(1) of Schedule 1B to the Mining Act.

## Assessing and granting consent

### When is consent needed to suspend mining operations?

Under the Mining Act, the lease holder can only suspend mining operations with written consent. Without consent the suspension of mining operations is a breach of the statutory conditions of a lease.

A lease holder who intends to suspend mining operations for a period of up to 12 months must notify the Department using the relevant form within 30 calendar days of suspending operations. To suspend mining operations for a period of more than 12 months, or for a period within two years of a previous suspension, a lease holder must obtain written consent using the appropriate form.

### What if the need to suspend is immediate?

A lease holder can voluntarily suspend mining operations at any time but must notify the Department using the relevant form within 30 days of suspending operations.

### What if the need to suspend is immediate, but the mine has a previous suspension within the last two years?

A lease holder will be required to submit an application. The Department may expedite assessment of the application where urgency can be demonstrated.

### How does a lease holder notify or apply for consent?

A notification or application for consent to suspend mining operations must be made on the relevant form and include the following information:

- reason for the proposed suspension of mining operations
- length of suspension, including start date and recommencement date
- how the lease holder intends to address the factors that led to the need to suspend mining operations
- any issues that may delay progressive rehabilitation and details on how progressive rehabilitation obligations will be addressed if any change to the rehabilitation management plan is required
- the amount of the resource remaining to be extracted
- details of any previous suspensions.

### Can a notification to suspend be refused?

A notification that meets the notification requirements and includes all the required information, will be taken to constitute written consent for the suspension of operations up to a maximum of 12 months from the commencement of the period of suspension.

If a notification does not meet the notification requirements, then consent is not deemed to be granted.

## **Is there a public register showing mines that have suspended mining operations?**

A list of mining operations that have suspended mining operations will be published on the Department's website, including details of the lease holder, the mine, the length of suspension and any conditions specified in the consent.

## **What is the appeal process if a suspension is revoked or not approved?**

A decision is final. An applicant may submit a new application at any time.

## **Extensions and administrative matters**

### **What is the process for renewing a mining lease under suspension?**

The process to renew a mining lease remains the same. A mine being in a state of suspension does not affect the mining lease renewal process and any consent that has been granted will be taken into account in the renewal decision making process.

### **Can a lease holder submit a notification to suspend if the expiry of the mining lease is within 12 months?**

A notification to suspend can be submitted at any time. A suspension will continue in effect whilst a renewal application is pending and will continue in force if the renewal is successful.

### **How long can a lease holder suspend operations?**

The total maximum length of time that the Department will grant consent to suspend is three years (which includes any period of up to 12 months under the notification provisions above).

### **How many times can suspension be extended?**

There is no limit to how many times a suspension can be extended however cumulative periods of suspension greater than three years are subject to additional review by the department.

### **Can the rehabilitation security bond be updated to account for suspensions?**

A lease holder may seek a change of the security deposit by submitting an updated rehabilitation cost estimate to reflect the period of suspension and impact on mining disturbance.

### **How does suspension affect mine closure?**

If a mine moves directly from suspension to closure the standard processes for mine closure apply. Rehabilitation obligations continue alongside a suspension therefore a mine can remain in suspension prior to and up to a mine closure.

Failing to re-commence mining following the expiry of a suspension is a breach of the statutory condition and may be subject to compliance and enforcement action.

## **What if the factors that led to the suspension are no longer valid?**

The Department may revoke a consent to suspend mining operations at any time if there is a breach of the requirements or conditions of the consent for suspension, or if there is a change in the factors that led to the suspension. If consent is revoked, the lease holder will be required to recommence mining operations. A lease holder will be provided with writing notice of the revocation.

## **Communications**

### **How will the lease holder be notified if their application/notification is received, is complete and is accepted?**

For notifications up to 12 months the department will email acknowledgement to the notifier.

For applications (>12 months, within two years of a previous suspension or where a notification is not received within the 30 day period) the department will provide written consent to the applicant.

### **How is the lease holder notified if their application/notification is incomplete or does not meet notification requirements?**

The lease holder will be advised by email if their notification does not meet the requirements or if their application has been refused and the reasons for the refusal. The lease holder may be asked to provide information to enable the department to consider their application or asked to re-submit the application form.

## **Compliance**

### **What happens if a mine does not obtain consent to suspend mining operations?**

The suspension of mining operations without consent is a breach of the statutory conditions of a lease. The Secretary or an inspector may direct the lease holder to recommence mining.

### **What happens if a mine does not recommence mining operations?**

A delay in recommencing mining operations is a contravention of the statutory condition of authorisation and failing to recommence following the expiry of the suspension consent may result in compliance and enforcement action. The Secretary or an inspector may direct the lease holder to recommence mining operations.

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