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A comparison of East Coast Australian rehabilitation planning statutory regimes

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Abstract

Ahead of the commencement next year of Victoria's new 'duty-based regulatory model' for the regulation of mines, quarries and exploration activities, it is timely to consider the Victorian statutory regime, together with the Queensland and New South Wales (NSW) statutory regimes for rehabilitation planning.

Currently, the statutory regimes in Queensland, NSW and Victoria share strong similarities, particularly as regards front-loading rehabilitation planning into the approvals' life cycle, setting enforceable end states (final landforms), and maintaining post-closure accountability backed by rehabilitation bonds and financial assurances. The Victorian reforms, commencing 1 July 2027, are intended to shift towards an outcomes-based approach and reposition rehabilitation plans at the centre of the regulatory framework (particularly for 'medium' and 'high' risk activities).

All 3 regimes, including the new Victorian model post-1 July 2027, have broad alignment with the International Council on Mining and Metals (ICMM) Integrated Mine Closure Good Practice Guide, which was last updated in 2025.

Keywords: *mine rehabilitation, mine closure, progressive rehabilitation, regulatory approvals, legislative reform*

1 Introduction

Mineral extraction on the East Coast of Australia has a long history, with the first discovery of coal in New South Wales (NSW) in the 1790s, the gold rushes in Victoria and Queensland in the 1850s, and more recent significant coal operations supporting electricity production over the last century in Queensland, NSW and Victoria. The Latrobe Valley in Victoria, for example, houses large open cut lignite (brown coal) mines with large co-located power stations established progressively since the 1920s, supplying the majority of Victoria's baseload electricity, and which are now approaching closure and rehabilitation (Mine Land Rehabilitation Authority 2024).

In that context, the 3 East Coast jurisdictions have each developed their own mine rehabilitation planning regimes. Ahead of the new duty-based regime to come into force next year in Victoria, this paper considers the comparable regulatory regimes between Victoria, NSW and Queensland.

Currently, the 3 state statutory regimes share strong similarities, particularly as regards front-loading rehabilitation planning into the approvals' life cycle, setting enforceable end states, and maintaining post-closure accountability backed by bonds and financial assurances. Notably:

- Queensland's statutory framework includes the *Environmental Protection Act 1994* (Government of Queensland 1994) (EP Act), with core progressive rehabilitation and closure plans subject to the statutory Guideline.

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- NSW's regime is reflected in consent and mining lease conditions [through the *Environmental Planning and Assessment Act 1979* (Government of New South Wales 1979] (EPA Act) and *Mining Act 1992* [Government of New South Wales 1992) (Mining Act) respectively], and rehabilitation management plans (RMPs) (for 'large mines').
- Victoria's existing work plan regime will shortly be replaced by the forthcoming duty- and risk-based reforms set to commence 1 July 2027, supporting an outcomes-based approach with regular periodic review requirements.

After considering the current regimes for each of these 3 jurisdictions, and the amendments to the Victorian regime taking effect from mid-2027, we reflect on the rehabilitation planning principles in the International Council on Mining and Metals (ICMM) Integrated Mine Closure: Good Practice Guide and how they align with the regimes in each jurisdiction. We also comment on how the key differences between the regulatory regimes are informed by contextual factors regarding the mining industry in each state.

2 Victoria

Victoria's existing mine rehabilitation regime:

- is set out under the *Mineral Resources (Sustainable Development) Act 1990* (Government of Victoria 1990) (MRSD Act) and the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019 (Government of Victoria 2019) (MRSDMI Regulations)
- prescribes requirements for 'work plans' as the primary document describing the permitted activities on a mining licence, which typically must include 'rehabilitation plans'
- contains specific arrangements for the 3 brown coal mines in the Latrobe Valley, which are located within one of the largest brown coal deposits in the world.

This framework, however, is set to be reformed from 1 July 2027 with the introduction of a duty- and risk-based model.

Additionally, most recently (in February 2026), new legislative provisions were passed to extend mine rehabilitation 'trailing liability' provisions for the long term (Government of Victoria 2026).

2.1 Current framework – work plan and rehabilitation plan

2.1.1 Statutory framework in the Mineral Resources (Sustainable Development) Act 1990 (Victoria)

The MRSD Act sets out the relevant statutory rehabilitation planning requirements. Generally, a prospective licensee must lodge a work plan [MRSD Act, ss 40, 42(1)(a), 43(1)(a)]. If the licence is a mining licence or a prospecting licence under which mining activities are proposed to be carried out, the work plan must include a rehabilitation plan for the land proposed to be covered by the licence [MRSD Act, s 40(3)(e)].

For work plans lodged on or after 1 July 2020 the prospective licensee must identify matters including:

- proposed post-mining land uses
- a landform that will be achieved to complete rehabilitation, which must be safe, stable and sustainable, and capable of supporting the proposed post-mining land use
- measurable completion criteria
- rehabilitation milestones
- the residual risks that rehabilitated land may continue to pose after active operations cease, including the projected costs of managing those risks (MRSDMI Regulations, r 43).

The rehabilitation plan must take into account, for example, any special characteristics of the land, the need to stabilise the land and any potential long-term degradation of the environment (MRSD Act, s 79).

Mining cannot commence unless the work plan is approved and the statutory preconditions to commencement, including the rehabilitation bond requirement, have been met [MRSD Act, ss 40, 42(1)(a)-(h), 80]. Rehabilitation bonds must cover the full cost of a mining operation's rehabilitation liability. Current rehabilitation bonds for each of the Latrobe Valley coal mines are AUD 289,000,000 (Hazelwood), AUD 189,942,000 (Loy Yang) and AUD 182,542,000 (Yallourn) (Resources Victoria 2026b). Once the work plan is approved, the licensee must carry out the works in accordance with the approved work plan [MRSD Act, s 78(1)] and must rehabilitate land in accordance with the rehabilitation plan [MRSD Act, s 78(2)].

If the minister is not satisfied that rehabilitation has been carried out, the minister may undertake the necessary work and apply all or part of the bond to those costs, returning any balance only if no further rehabilitation is likely to be necessary (MRSD Act, ss 81, 83). Conversely, where the minister is satisfied that rehabilitation has been completed as required and is likely to be successful, the bond must be returned as soon as possible (MRSD Act, ss 81A, 82).

Doing work under the licence, other than in accordance with the approved work plan, is a breach of the MRSD Act punishable by a maximum penalty of 1,000 penalty units for a corporation (AUD 203,510 based on current penalty unit values between 1 July 2025 to 30 June 2026) and 200 penalty units in any other case (AUD 40,702) [MRSD Act, s 39(1)].

2.1.2 DMRP requirements for the Latrobe Valley mines

Importantly, 3 mines have been gazetted as 'declared mines' under s 7C of the MRSD Act: Hazelwood, Loy Yang and Yallourn. Each of these mines are located in the Latrobe Valley, approximately 200 kilometres east of Melbourne. The large-scale brown coal (lignite) mines and associated coal-fired power stations developed in the Latrobe Valley are as set out in Table 1.

Table 1 Latrobe Valley coal-fired power stations

Power stations	Associated coal mine	Operator	Anticipated closure date	Area disturbed by mining operations (ha)
Hazelwood	Hazelwood mine	ENGIE	March 2017 (Resources Victoria 2026a)	2,543 [Hazelwood Mine Fire Inquiry (HMFI) 2016]
Yallourn	Yallourn mine	EnergyAustralia	Mid-2028 (EnergyAustralia 2021)	1,769 (HMFI 2016)
Loy Yang A	Loy Yang mine	AGL	Mid-2035 (AGL 2022)	2,070 (HMFI 2016)
Loy Yang B	Loy Yang mine	Alinta	By 2047 (Australian Energy Market Operator 2026)	See row immediately above

Each of these mines have been declared on the basis that the minister has determined that there are geotechnical, hydrogeological, water quality or hydrological factors within the mines that pose a significant risk to public safety, the environment and/or infrastructure (MRSD Act, s 7C).

Declared mine licensees must prepare a declared mine rehabilitation plan (DMRP) in accordance with the MRSD Act and the MRSDMI Regulations. The Ministerial Guidelines for the preparation of DMRPs, published in October 2025 (Department of Energy, Environment and Climate Action 2025) (Ministerial Guidelines), further clarify the expectations for the preparation of a DMRP. DMRPs must include (in summary):

- an assessment of the risks posed by the declared mine land
- a rehabilitation plan to address the risks posed by the mined land

- closure criteria to measure achievement of rehabilitation objectives and land use outcomes (e.g. measures to address risks to public health and safety, the environment and infrastructure)
- a post-closure plan that identifies any risks that may continue in post-closure and sets out the monitoring and maintenance to be carried out following the rehabilitation of the land (MRSD Act, s 84AZU; Ministerial Guidelines, s 1.2).

Declared mine licensees are expected to take an 'iterative' approach to preparing and updating DMRPs over the course of the mining life cycle. For example, the closure criteria within a DMRP must be reviewed and refined as rehabilitation works are planned and implemented, and additional information becomes available. DMRPs must also be publicly exhibited prior to being submitted to the department head for approval, with declared mine licensees being required to consider any feedback received during the exhibition period.

The closure criteria within a DMRP are the key mechanisms to enable closure of a declared mine and relinquishment of the mining licence, once the relevant rehabilitation works have been implemented. Once the minister determines that the closure criteria have been met:

- the mining licence will be relinquished, and the balance of the rehabilitation bond held by the declared mine licensee will be released
- the declared mine licensee will be required to contribute a specified amount to the Declared Mine Fund (administered by the state), which is intended to meet the ongoing costs associated with the post-closure management of the land
- the post-closure plan within the DMRP would be registered against the title of any affected land (MRSD Act, Div 3, Pt 7C).

The status of the DMRP for each of the 3 Latrobe Valley mines is set out below:

- Hazelwood mine (closed in 2017). ENGIE's draft DMRP was available for public feedback from 1 August 2025 to 12 September 2025, and submitted to Resources Victoria on 30 September 2025 (ENGIE 2025). Approval will not be considered until the current Environment Effects Statement process for the Hazelwood Rehabilitation Project has concluded (Resources Victoria 2026a)
- Yallourn mine (scheduled to close in 2028). EnergyAustralia exhibited its draft DMRP for public feedback between 18 June 2025 and 18 August 2025, and subsequently updated and submitted the DMRP to Resources Victoria on 30 September 2025 (EnergyAustralia 2025). The DMRP is currently under assessment (Resources Victoria 2026d)
- Loy Yang mine (expected to operate until at least 2035). No DMRP has yet been prepared. The minister has granted AGL an extension to 1 October 2027 to submit its DMRP. AGL released a fact sheet regarding its rehabilitation planning in September 2024 (AGL 2024).

Non-compliance with a DMRP is a ground for notice (MRSD Act, s 110), and failure to comply with that notice is a breach [MRSD Act, s 110(3)]. The maximum penalty is 2,500 penalty units for a corporation (AUD 508,775) and 500 penalty units in any other case (AUD 101,755) [MRSD Act, s 110(3)].

2.1.3 Latrobe Valley Regional Rehabilitation Strategy

The rehabilitation of the Latrobe Valley declared mines is also guided by the Latrobe Valley Regional Rehabilitation Strategy (Department of Jobs, Precincts and Regions; Department of Environment, Land, Water and Planning 2020) (LVRRS) and the Latrobe Valley Regional Rehabilitation Strategy Amendment (Department of Energy, Environment and Climate Action 2023) (LVRRS Amendment), which have statutory force (MRSD Act, Pt 7B).

The LVRRS originated from the 2014 Hazelwood Mine Fire Inquiry (HMFI) conducted under the *Inquiries Act 2014* (Vic) (Government of Victoria 2014), which focused on fire management measures and emergency response arrangements at the Hazelwood mine following a 45-day mine fire incident (Department of Energy, Environment and Climate Action 2023). The HMFI was re-opened in 2015 with new areas of investigation, including the future rehabilitation of all 3 Latrobe Valley mines.

The LVRRS was developed to address recommendations in Vol IV of the 2015-16 HMFI report regarding knowledge gaps as to future Latrobe Valley mine rehabilitation (HMFI 2016). Its development has also been supported by a range of technical studies on topics including water availability, geotechnical issues and alternative rehabilitation options.

The LVRRS is intended to support integrated planning and decision-making for the rehabilitation of the Latrobe Valley mines. However, the LVRRS does not itself endorse or approve any particular rehabilitation option where Latrobe Valley mine licensees remain responsible for undertaking their own rehabilitation planning and preparing DMRPs for approval.

The LVRRS is reviewed at least once every 3 years. The LVRRS Amendment released in October 2023 reflects closure announcements in relation to the Yallourn and Loy Yang A Power Stations (Department of Energy, Environment and Climate Action 2023). In particular, the LVRRS Amendment contains guidance on surface water access from the Latrobe River system for rehabilitation purposes at the Yallourn and Loy Yang mines (Department of Energy, Environment and Climate Action 2023).

The LVRRS and LVRRS Amendment also set out expectations regarding declared mine licensees' compliance with environmental assessment and approval processes, in parallel with MRSD Act obligations. The LVRRS Amendment refers to a 'presumption' that declared mine licensees would refer their proposed final rehabilitation works under the *Environment Effects Act 1978* (Government of Victoria 1978) and *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth of Australia 1999) (EPBC Act) to determine whether assessment and approval is required (Department of Energy, Environment and Climate Action 2023).

2.1.4 February 2026 legislative amendments extending mine rehabilitation trailing liability provisions

Regarding trailing liabilities for mine rehabilitation, amending legislation was recently (February 2026) passed – namely the *MRSD Act Amendment (Financial Assurance) Act 2026* (Government of Victoria 2026), with most sections commencing 11 February 2026) – which amended the MRSD Act to introduce a trailing liabilities scheme relating to the rehabilitation of declared mine land.

Where relevant statutory conditions are satisfied, the scheme enables the minister to 'call back' a person via a remedial direction to meet a rehabilitation or closure requirement, or to pay rehabilitation costs (MRSD Act, ss 84AZZQ, 84AZZS). It is intended to be used as a 'measure of last resort' to prevent taxpayers from being required to bear the costs of rehabilitation where the relevant declared mine licensee fails, or is unable, to meet its rehabilitation obligations.

Call back directions can be issued to a broad range of persons, including related bodies corporate of a declared mine licensee, former licence holders, related bodies corporate of former licence holders and other persons that the minister determines should be captured [MRSD Act, s 84AZZO(1)], with the look back commencing on or after 6 May 2022. The maximum penalty for failure to comply with a remedial direction is 2,500 penalty units for a corporation (AUD 508,775) and 500 penalty units in any other case (AUD 101,755) (MRSD Act, s 84AZZX).

The trailing liabilities scheme draws some parallels with the 'chain of responsibility' provisions of the EP Act in Queensland, which enables environment protection orders (EPOs) to be issued to 'related persons' of companies issued with EPOs or 'high-risk' companies (e.g. a company in external administration). This includes the ensuring of compliance with rehabilitation and remediation obligations.

However, similar to the DMRP requirements noted in section 2.1.1, the trailing liabilities scheme currently only applies to the Latrobe Valley declared mines. In contrast, the chain of responsibility provisions in Queensland apply to industrial sites more generally, and to any activity that causes, or is likely to cause, serious or material environmental harm.

2.2 Reforms commencing 1 July 2027

2.2.1 Duty and risk-based reforms

In 2023 the Victorian Parliament passed the *MRSD Amendment Act 2023* (Government of Victoria 2023) (MRSD Amending Act), the substantive provisions of which are set to commence on 1 July 2027, establishing a modern duty-based regulatory model. Prior to the MRSD Amending Act being introduced and passed, the proposed reforms were the subject of consultation with local government, industry, traditional owner groups and other stakeholders (Taylor MP 2023).

The MRSD Amending Act substantially recasts the MRSD Act regarding both mining operations and rehabilitation by:

- removing the work plan approvals process
- replacing the former model with a duty- and risk-based framework that retains rehabilitation plans as the key instrument for moderate- and high-risk activities.

Specifically, the MRSD Amending Act:

- introduces a general duty to eliminate or minimise, so far as reasonably practicable, risks of harm to the environment, the public, and nearby land, property and infrastructure from any exploration, extractive industry, mining or rehabilitation of land, or any related activity carried out by or on behalf of the duty holder (MRSD Amending Act, s 14). The duty is framed in a similar way to separate duties under Victorian environmental protection and occupational health and safety legislation
- classifies licences and extractive industry work authorities as lower, moderate or higher risk, with different compliance requirements attaching to each category
- provides that if the risk level for a mining licence or prospecting licence is medium or high (as self-assessed or as determined by the department head), the holder of the licence must lodge a rehabilitation plan (MRSD Amending Act, s 24). Rehabilitation plans must set out how affected land will be rehabilitated (MRSD Amending Act, s 24), are subject to approval and regular review (MRSD Amending Act, s 25) and must be formally varied if proposed changes would significantly increase risk (MRSD Amending Act, ss 26-29). DMRPs are expected to comprise the relevant rehabilitation plans for the declared mines.

Rehabilitation for lower-risk activities will need to be undertaken in accordance with a Code of Compliance made under the MRSD Amending Act (MRSD Amending Act, s 14).

2.2.2 Increased penalties regime

The MRSD Amending Act materially strengthens enforcement by making breaches of the new duty to eliminate or minimise risk an indictable offence, punishable by a maximum of 10,000 penalty units for a corporation (AUD 2,035,100) and 2,000 penalty units in any other case (AUD 407,020), with an aggravated offence carrying 20,000 penalty units for a corporation (AUD 4,070,200) and, in any other case, 4,000 penalty units (AUD 814,040) or 5 years imprisonment, or both (MRSD Amending Act, s 14).

The MRSD Amending Act also attaches rehabilitation-specific maximum penalties for failing to rehabilitate land in accordance with the applicable rehabilitation plan or the Code of Compliance; 1,000 penalty units for a corporation (AUD 203,510) or 200 penalty units in any other case (AUD 40,702) (MRSD Amending Act, s 41).

2.2.3 Consultation on supporting regulations

The reforms reflected in the MRSD Amending Act will be supported by new regulations. According to Resources Victoria (2026c), we can expect the following stages of reform and engagement:

- Stage 1 Implementation will centre on developing the new regulatory framework through targeted stakeholder engagement, public consultation on proposed regulations and supporting materials via a regulatory impact statement, and related updates to planning instruments, with those measures to be progressed in 2026.

- Stage 2 Transition will focus on preparedness for commencement of the duty-based model on 1 July 2027, including updating operational processes, strengthening regulatory capability, issuing guidance and education materials, and planning the transition of existing licence and authority holders to the new framework.

3 New South Wales

3.1 Dual-instrument regime

NSW regulates mine rehabilitation through a dual-instrument regime under the EPA Act and the Mining Act [including the *Mining Regulation 2016* (Government of New South Wales 2016) (Mining Regulations)]. Development consent under the EPA Act fixes the approved final land use and high-level rehabilitation outcomes. Once development consent is granted, a mining lease may be issued under the Mining Act [Mining Act, s 65(2)]. Mining leases impose binding standard conditions that enforce progressive rehabilitation throughout the mine life cycle (Mining Regulations, Sch 8A, Pt 2).

3.2 Required approvals

3.2.1 Consent under the Environmental Planning and Assessment Act

The EPA Act determines whether a mining proposal is a 'development that needs consent' and the pathway for assessment (EPA Act, s 4.2). Development consent is required where an environmental planning instrument makes a proposal permissible only with consent, with s 2.9 of the State Environmental Planning Policy (Resources and Energy) 2021 (Government of New South Wales 2021c) specifying the relevant categories. Consent is generally required for mining, petroleum and extractive industry projects.

The level of detail required for acquiring consent depends on the classification of the project under Pt 4 of the EPA Act. The EPA Act distinguishes between the consent requirements for designated developments under Sch 3 of the Environmental Planning and Assessment Regulation 2021 (Government of New South Wales 2021a) (EPA Regulations) and State Significant Developments (SSD) under Sch 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Government of New South Wales 2021b) (Department of Planning, Housing and Infrastructure 2026b). Designated developments require development consent accompanied by an environmental impact statement (EIS) [Department of Planning, Housing and Infrastructure 2026d; Department of Planning, Housing and Infrastructure 2026e; EPA Regulation, Sch 3; EPA Act, s 4.12(8)]. SSDs require consent under Div 4.7 of the EPA Act.

In both designated developments and SSDs, an EIS must accompany the application [EPA Act, s 4.12(8)], detailing the project's likely economic, environmental and social impacts [Department of Planning, Housing and Infrastructure 2026d; EPA Regulations, s 192(1)].

If consent is granted it will include rehabilitation conditions that fix the approved post-mining end state, including the final land use to which the site must be returned. That specified final land use is then embedded into the definition of 'final land use' under the Mining Regulations that guide all leaseholder objectives (Mining Regulations, Sch 8A, cl 6).

3.2.2 Mining leases

Once development consent is in force a mining lease may be granted. All leases are subject to prescribed standard rehabilitation conditions under Sch 8A, Pt 2 of the Mining Regulations. These conditions create a binding legal framework for rehabilitation planning and progressive rehabilitation.

3.2.3 Progressive rehabilitation conditions

Leaseholders must comply with progressive rehabilitation obligations, including:

- taking all reasonable measures to prevent, or if not reasonably practicable, minimise, environmental harm from activities under the lease
- rehabilitating disturbed land and water as soon as reasonably practicable
- achieving the approved final land use for the mining area per the approved rehabilitation outcome documents (Mining Regulations, Sch 8A, cls 4–7).

The leaseholder must also conduct a rehabilitation risk assessment and implement controls that eliminate, minimise or mitigate risks to achieving the final land use. The assessment must also identify any risks to the achievement of the documented plans and objectives discussed below.

3.2.4 Required documentation for approvals

The regulations also specify the documentation that must be prepared by leaseholders, which must be given to the secretary in the approved 'form and way' and kept current (Mining Regulations, Sch 8A, cl 9-16).

Leaseholders must prepare a rehabilitation objectives statement and a rehabilitation completion criteria statement [Mining Regulations, Sch 8A, cl 12(1)(a)–(b); NSW Resources 2025]. The rehabilitation objectives statement sets out the objectives required to deliver the approved post-mining land use for the mining area [Mining Regulations, Sch 8A, cl 12(1)(a)]. The rehabilitation completion criteria statement then prescribes measurable criteria and verification methods to demonstrate how rehabilitation objectives are achieved [Mining Regulations, Sch 8A, cl 12(1)(b)].

Leaseholders must also submit an annual rehabilitation report and a forward program that demonstrate progressive rehabilitation and performance against approved outcomes. The annual rehabilitation report documents rehabilitation status, monitoring and performance against objectives and criteria [Mining Regulations, Sch 8A, cl 13(2)]. The forward program sets out a 3-year schedule of mining and rehabilitation activities and demonstrates how rehabilitation will occur throughout the project life cycle [Mining Regulations, Sch 8A, cl 13(1)].

3.2.5 Documentation specific to 'large mines'

A 'large mine' is a mine with one or more mining leases where activities under at least one lease require an Environment Protection Licence under the *Protection of the Environment Operations Act 1997* (Government of New South Wales 1997) (Mining Regulations, Sch 8A, cl 1). Leaseholders who manage large mines must provide a spatially defined final landform and rehabilitation plan and maintain an RMP [Mining Regulations, Sch 8A, cl 10, 12(1)(c)]. The final landform and rehabilitation plan spatially depicts the final land use [Mining Regulations, Sch 8A, cl 12(1)(c)]. The RMP describes how rehabilitation will occur and how rehabilitation requirements are being complied with [Mining Regulations, Sch 8A, cl 10(1)]. This includes risk assessment and controls, quality assurance, monitoring, research and trials, adaptive management, and alignment to development consent conditions [Mining Regulations, Sch 8A, cl 10(1)–(3)].

3.3 Assurance bonds

All mining title holders must provide and maintain a rehabilitation security deposit that covers the government's full cost of undertaking rehabilitation if the leaseholder defaults (Department of Planning, Housing and Infrastructure 2026c; Mining Act, Pt 12A; NSW Resources 2024a). The Resources Regulator determines the assessed deposit by reference to the title holder's rehabilitation cost estimate lodged with the annual forward program and prepared using the secretary-approved tool (Mining Act, Pt 12A, s 261BB). Once rehabilitation completion has been achieved, the holder lodges a rehabilitation completion application and applies for a security return using the prescribed cancellation form (NSW Resources 2024b).

3.4 Stakeholder engagement: overview of public consultation requirements as part of environmental impact statements and approval under the EPA Act

The EPA Act requires community participation as a central aspect of development consent assessments (EPA Act, Div 2.6 and Sch 1; Department of Planning, Housing and Infrastructure 2026a). Planning authorities must prepare and publish a community participation plan that explains how and when it will engage the public for development consents (EPA Act, Sch 1). When the department grants consent, planning authorities must publish reasons for decisions and demonstrate how community views were considered (EPA Act, Sch 1, Pt 1).

Exhibition requirements are governed by Sch 1 of the EPA Act and the respective department's community participation plan. Designated developments and SSD applications are generally exhibited for at least 28 days (EPA Act, Sch 1, ss 8-9). Any person may lodge a submission during the exhibition period [EPA Regulations, r 56(6)(f)], The consent authority must consider public submissions when determining an application [EPA Act, s 4.15(1)(d)].

4 Queensland

The mine closure framework in Queensland is principally governed by the EP Act. Notably, in 2018 the Queensland Government undertook substantial reforms to the mine closure framework in response to concerns identified in the review of Queensland's financial assurance arrangements (Queensland Treasury Corporation 2017) and the Better Mine Rehabilitation for Queensland discussion paper (Department of Premier and Cabinet et al. 2017). Those reforms introduced a more structured regime for the progressive rehabilitation and closure of mined land and introduced a new Financial Provisioning Scheme.

Broadly, the reforms brought Queensland closer to the approaches adopted in Victoria and NSW by requiring rehabilitation planning earlier in the mining life cycle and linking that to enforceable post-mining end states.

4.1 Approvals

4.1.1 Progressive rehabilitation and closure plans and the Guidelines

Since 1 November 2019 all mines in Queensland operating under a site-specific environmental authority have been required to prepare a progressive rehabilitation and closure plan (PRCP) for mined land (EP Act, ss 750, 754). There are two central purposes of a PRCP: firstly, to require the environmental authority holder to plan how, where and when activities will be undertaken to maximise the progressive rehabilitation of land to a stable condition; and secondly, to specify the condition to which land must be rehabilitated before the environmental authority may be surrendered.

The practical effect of the new regime is still emerging. As at 30 June 2025, 206 mines were required to produce a PRCP, 196 of which were existing mines transitioning into the framework. Of those mines, 144 had not yet obtained an approved PRCP (Office of the Queensland Mine Rehabilitation Commissioner 2025a). The generally slow implementation makes it difficult, at present, to draw firm conclusions about the practical effect and enforcement of the PRCP framework across the industry as a whole.

4.1.1.1 Progressive rehabilitation

A defining feature of the Queensland regime is the requirement to maximise progressive rehabilitation. Rehabilitation of any disturbed land is expected to commence, and be completed, as soon as practicable after it becomes available. If land cannot be rehabilitated until mining ceases, the applicant must justify that position in the rehabilitation planning component of the PRCP.

In practice, however, the concept of progressive rehabilitation against disturbance has been difficult to apply uniformly. The 2024–25 report published by the Queensland Mine Rehabilitation Commissioner (Commissioner) observed that industry feedback had highlighted particular issues arising from the statutory expectation that rehabilitation should occur 'as land becomes available, noting that shallow strip mining and open cut highwall methods are generally more amenable to progressive rehabilitation, given land becomes available as the working face moves across the site' (Office of the Queensland Mine Rehabilitation Commissioner 2025a). By contrast, deep open cut and underground metals mines are less suited to the same model.

4.1.1.2 Post-mining land use and non-use management areas

Another key feature of the PRCP framework is that proponents must also identify the post-mining land use (PMLU), being the intended final use of all land within the relevant tenures, and explain how rehabilitation outcomes will be achieved progressively over the life of mine. A PMLU is the purpose for which land will be used once the relevant activities covered by the PRCP have ended (EP Act, s 112). The PRCP Guidelines (Department of Environment, Science and Innovation 2023) provide that proponents are to identify suitable PMLUs having regard to the surrounding landscape, community views, and relevant local and regional planning objectives. Examples of PMLUs include native ecosystem, habitat and ecosystem services, grazing, agriculture, forestry, cropping, industrial use, landfill or water storage. For a proposed PMLU to be accepted, the PRCP must demonstrate that the relevant land can be rehabilitated to a 'stable condition' (EP Act, s 111A). The Environmental Protection Regulation 2019 (Government of Queensland 2019) (EP Regulations) further requires that each PMLU be viable in light of land use in the surrounding region (and at least be consistent with the pre-mining use of the land, with a relevant development approval, with another lawful use under state or Commonwealth legislation, or with the delivery of a beneficial environmental outcome) (EP Regulations, Sch 8A, Pt 3, Table 1). The combined effect of these requirements is that the acceptability of a PMLU depends not only on technical achievability but also on broader land use coherence and planning compatibility.

Where land cannot be rehabilitated to a stable condition the area may be proposed as a 'Non-Use Management Area' (NUMA) (EP Act, s 112). Inclusion of a NUMA must be justified by reference to strict statutory criteria [EP Act, s 126D(2)]. This demonstrates that the framework is designed to ensure that non-rehabilitated outcomes are treated as exceptions rather than default closure solutions.

4.1.1.3 Post-mining land use schedule

The PRCP schedule is the key operative instrument within the broader PRCP. The schedule must include a final site design map showing the total area covered by the PRCP at surrender, including undisturbed land, proposed PMLUs and any proposed NUMAs (EP Act, s 126D). It must also include a table of milestones and any conditions imposed by the administering authority (EP Act, s 202D). For each PMLU or NUMA, the applicant must propose appropriate rehabilitation or management milestones (EP Act, s 126D). Rehabilitation milestones identify each significant event or step necessary to rehabilitate the land to a stable condition, whereas management milestones are required for areas designated as NUMAs and are directed to achieving best practice management and minimising environmental risk (EP Act, s 112).

4.1.2 Mine Rehabilitation Commissioner

The Mine Rehabilitation Commissioner is an independent statutory office holder appointed under the EP Act to advise the responsible minister on mine rehabilitation management practices, outcomes and policy. The commissioner's remit, which extends across 'resource activities' in Queensland (including both mining and petroleum activities), is separate from the administering authority responsible for regulating those activities. The commissioner's functions include monitoring and reporting on rehabilitation practices and trends, raising awareness of rehabilitation management issues and providing advice on rehabilitation performance. Notably, the Office of the Commissioner is preparing a State of Mine Rehabilitation Report Card for Queensland, which is expected to assess the status of mine rehabilitation over the first 5 years of the commissioner's operations, comment on the effectiveness of rehabilitation to date and identify examples of leading practice (Office of the Queensland Mine Rehabilitation Commissioner 2025b). The report is intended to cover the period from October 2021 to September 2026 and is scheduled for publication in FY27 (Office of the Queensland Mine Rehabilitation Commissioner 2025b).

4.2 Financial assurance

Since 1 April 2019, Queensland's rehabilitation framework has been supported by the reformed financial assurance regime under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (Government of Queensland 2018) (MERFP Act). The MERFP Act established the Financial Provisioning Scheme (FPS), administered by the Scheme Manager, to hold the assurance provided by the resource sector under the EP Act. The purpose of the scheme is to ensure that the state has access to funds to meet the costs of preventing or minimising environmental harm, rehabilitating or restoring the environment, and securing compliance with environmental authority conditions where necessary.

Under the MERFP Act, the Scheme Manager is responsible for determining the amount of scheme assurance to be provided by an environmental authority holder. That assessment is based on the estimated rehabilitation cost (ERC), being the estimated cost of rehabilitating the land on which the resource activity is carried out and of preventing or minimising environmental harm, or rehabilitating or restoring the environment, in connection with that activity. The relevant amount (and form) of financial provisioning also depends on the risk category allocation for the environmental authority (as between very low, low, moderate, moderate-high and high-risk categories). Financial provisioning requirements can either take the form of contributions to the FPS Fund or sureties (i.e. bank guarantees, insurance bonds or cash).

Compliance with financial provisioning requirements is a condition of all environmental authorities for resource activities. An authority holder cannot commence (or allow) activities unless they are described in the current ERC decision (EP Act, s 297). The holder must also apply for a new ERC decision in a range of circumstances, including where there is a change in likely maximum disturbance or a likely increase in the ERC.

As at 30 June 2025, the Scheme Manager held AUD 7,702,589,000 in sureties, and the pooled balance of the FPS Fund was AUD 396,191,000 (Queensland Treasury 2025). Planned expenditure from the FPS Fund for the FY26 & FY27 periods includes grants of funding to support the rehabilitation of abandoned mines and expand research into mine rehabilitation (Queensland Treasury 2025).

4.3 Stakeholder engagement

Stakeholder engagement is a central element of the PRCP framework and is integrated into several components of the approval and operational life cycle. At the planning stage, the legislation requires that a PRCP includes both a community consultation register (identifying the consultation undertaken to date in developing the PRCP) and a community consultation plan, setting out how consultation will continue in relation to rehabilitation under the PRCP. Applicants are expected to consult the community early and on an ongoing basis to establish and maintain relationships over the life of the project. Notably, the administering authority must be satisfied that the applicant has attempted to consult all relevant members of the community and may require further information if it considers that consultation has been inadequate. In this respect, stakeholder engagement informs whether a PRCP is fit for approval.

The Office of the Commissioner's Strategic Plan 2025–2029 has flagged stakeholder engagement as a key focus for the coming years, with a particular focus on 'increas[ing] transparency and rais[ing] awareness on technical, scientific and engagement rehabilitation matters' (Office of the Queensland Mine Rehabilitation Commissioner 2025c).

5 Federal

With Australia being a federal system (with applicable laws at a state and Commonwealth level), a mining project in any of the 3 states addressed in this paper also requires referral and assessment under the Commonwealth EPBC Act where it has the potential to have a significant impact on a matter of national environmental significance (MNES) (e.g. listed threatened species and ecological communities) (EPBC Act, Pt 3). If the Commonwealth minister determines that a referred action (e.g. a mining project or associated clearing, water take, infrastructure, dewatering, waste facilities etc.) is a 'controlled action', because it has or will have significant impacts on MNES, then the proponent cannot take the action without an approval under Pt 9 for the purposes of the relevant MNES (EPBC Act, s 67). There are limited statutory exceptions to the requirement to obtain a Pt 9 approval in these circumstances (EPBC Act, s 67A).

The EPBC Act requires the proponent of a controlled action to undertake one of several assessment and approval pathways (e.g. an EIS), and the minister's approval (if granted) may be made subject to conditions aimed at protecting, repairing or mitigating impacts on the protected matters. However, under bilateral agreements between each state and the Commonwealth Government, state environmental assessment processes may serve as the single accredited assessment process for projects that require assessment under both state environmental legislation and the EPBC Act.

6 International context: the International Council on Mining and Metals Good Practice Guide

The ICMM Integrated Mine Closure: Good Practice Guide (ICMM 2025) (ICMM Guide) provides guidance to effectively integrate closure across the mining life cycle, with the benefit of proactive identification and addressing of risks, and the building stakeholder engagement and confidence. Importantly, the ICMM Guide outlines the key elements of the iterative pathway of mine closure planning, as outlined in Table 2.

Table 2 Elements of the iterative mine closure planning process

No.	Elements
1.	Integration into life of mine planning
2.	Knowledge base
3.	Closure vision, principles and objectives
4.	Post-closure land use
5.	Engagement for closure plan development
6.	Identifying and assessing risks and opportunities
7.	Closure activities, both at final closure and progressively
8.	Success criteria
9.	Progressive closure during the operating life of mine
10.	Social transition
11.	Closure costs
12.	Closure execution plan, developed and regularly updated
13.	Monitoring, maintenance and management
14.	Relinquishment
15.	Temporary or sudden closure
16.	Closure governance

In the wider context of an international expectation setting, all 3 existing state statutory regimes align, in principle, on early integration, progressive closure and stakeholder engagement.

The NSW regime provides the clearest guidance material for documenting the site-specific knowledge base and tracking progressive performance through annual reports, forward programs and RMPs. Victoria's regime, on the other hand, most clearly articulates success criteria, post-closure risk management and, for declared mines, a post-closure plan including monitoring and maintenance aligning with the ICMM Guide. Finally, Queensland's PRCP regime most strongly emphasises the importance of undertaking progressive rehabilitation activities throughout the operation, and identifying post-mining land uses upfront, to establish clear objectives and milestones for the rehabilitation process.

Ultimately, the differences between the mine rehabilitation regimes across the 3 jurisdictions (and their alignment with the ICMM Guide) are informed by contextual factors regarding the mining industry in each state. For example:

- The DMRP framework in Victoria responds to the significant complexity associated with the rehabilitation of the 3 Latrobe Valley coal mines, given their scale and physical characteristics (particularly the geotechnical and hydrogeological conditions requiring active management). The bespoke DMRP arrangements are intended to ensure that long-term risks and uncertainties associated with rehabilitating these mines are appropriately assessed and managed.
- The regulatory regime in Queensland focuses upon minimising risks in the event that mine operators are unable or unwilling to satisfy their rehabilitation obligations, including amidst more frequent M&A activity in certain asset classes. As a result, the regime emphasises progressive rehabilitation requirements to reduce environmental liabilities over the mining life cycle, and ensures that former mine operators (or related entities) can be pursued for any non-compliance.

In their own ways, each of the 3 jurisdictions incorporate elements of the ICMM Guide as regards integration, progressive rehabilitation, success criteria and engagement. However, there is less apparent alignment in relation to other ICMM Guide elements, such as social transition, temporary or sudden closure and closure governance. It also remains to be seen whether the Victorian mining regulatory regime will begin to further align with the ICMM Guide as the industry consultation process regarding the new duty-based model continues (including regarding the expected regulations) and the model is subsequently implemented.

7 Conclusion

The mine rehabilitation planning regimes in Victoria, New South Wales and Queensland share a number of similarities, including an emphasis on upfront rehabilitation planning and robust financial assurance arrangements.

Recent legislative developments in Victoria for the Latrobe Valley declared mines, including the shift to a duty-based regime and the introduction of a trailing liabilities scheme, will further strengthen the regulation of mine rehabilitation planning and implementation for those sizeable assets.

Whilst the rehabilitation planning regimes in each of these 3 jurisdictions generally align well with the International Council on Mining and Metals Integrated Mine Closure: Good Practice Guide, particularly in relation to establishing measurable completion criteria and engaging with stakeholders throughout the mining life cycle, there are features unique to each jurisdiction that respond to their industry characteristics and related risk considerations.

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