

Earth Resources Regulation

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# Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites

## PROGRESS REPORT | 2021 Report

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Improving rehabilitation for mines, quarries and other earth resources sites

# Effective rehabilitation underpins confidence

Every day, Victorians depend on the use of minerals, sand, stone, and other earth resources, which are essential to meet the State's construction, infrastructure, energy, technology, business and household needs.

As Victoria's primary regulator of earth resources, Earth Resources Regulation is committed to protecting people, land, infrastructure and the environment across the whole resource life cycle – from the earliest exploration activity through to extraction and final site closure.

Effective site rehabilitation underpins confidence in both the resources industry and the regulator – the commitments made upon approval of a project must be fulfilled when it is finished.

In February 2020, Earth Resources Regulation published our [Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites](#). The strategy outlines our approach and the actions we are taking to overhaul the way that we regulate site rehabilitation.

In late 2020, we published a [Progress-Report](#) and an [Addendum](#) to the Strategy. The addendum reaffirms our commitment to our strategic objectives and goals and outlines additional actions we will take to further improve rehabilitation outcomes, including responses to recommendations made by the Victorian Auditor General's Office in its Rehabilitating Mines audit.

This Progress Update outlines the steps we've taken to deliver the strategy so far.

## Strategic objective and goals

Our strategic objective is to achieve site rehabilitation for mines, quarries and other earth resources activities to meet government and community expectations by:

- Protecting people, land, infrastructure and the environment
- Ensuring land can be returned to a safe, stable and sustainable landform
- Minimising the State's exposure to rehabilitation liabilities if an authority holder defaults; and
- Being a best practice regulator.



# Strategic goal 1

## Protect people, land, infrastructure and environment

We are regulating resource sites to protect people, land, infrastructure and the environment from potential adverse impacts of poor site rehabilitation. We are doing this by working with authority holders to encourage effective rehabilitation and require clear closure criteria for the completion of rehabilitation.

### Overview of actions we have delivered

- **Better rehabilitation practice and transparency.** We updated our compliance strategy and annual compliance plan to explicitly include inspections and other compliance activities to ensure that authority holders fulfil their site rehabilitation obligations: [ERR Compliance Strategy 2021-22](#). Our earth resources planning counterparts have also developed a new booklet entitled [New Lives of Old Quarries innovative development after quarrying ceases](#) to encourage innovation in the quarrying sector and provide examples of where quarry land has been repurposed for uses that benefit the community.
- **Developed closure guidelines.** The [Mining Industry Rehabilitation Guidelines](#) and the [Extractive Industry Rehabilitation Guidelines](#) and were developed in 2020 and 2021, respectively, to assist authority holders develop objectives and criteria that will need to be met to relinquish a site after rehabilitation. This is in accordance with the amended minerals and extractives regulations 2019. These guidelines and other information are available on our website: [earthresources.vic.gov.au](http://earthresources.vic.gov.au).
- **Encouraging increased progressive rehabilitation.** We developed rehabilitation guidance materials to assist authority holders minimise their rehabilitation liabilities and associated bonds

by undertaking progressive site rehabilitation. Further information is available on our website: [Rehabilitation bonds](#).

- **Published an inventory of rehabilitation bonds.** An inventory of the rehabilitation bonds currently held for all quarry, exploration, mine, petroleum, and other earth resource sites was prepared and published in 2020/21 to ensure transparency and readily accessible data. The inventory is available at [Rehabilitation bond interactive dashboard](#).

# Strategic goal 2

## Ensure land is returned to a safe, stable and sustainable form

We are encouraging authority holders to undertake rehabilitation planning, including specifying the final safe, stable and sustainable landform and working more closely with public and private landholders and co-regulators.

### Overview of actions we have delivered

- **Established rehabilitation plan guidelines.** We have published guidelines to provide greater clarity for industry on rehabilitation plans and how to meet current regulations: [Extractive Industry Rehabilitation Guidelines](#) and [Mining Industry Rehabilitation Guidelines](#).
- **Improving management of abandoned and legacy earth resource sites.** The Department of Jobs, Precincts and Regions, the Department of Environment, Land, Water & Planning and Parks Victoria have put in place a Joint Statement for Abandoned and Legacy Mines on Crown Land to clarify their respective roles and responsibilities in line with the Victoria's legislative framework. The [2020 Joint Statement](#) is available at [earthresources.vic.gov.au](http://earthresources.vic.gov.au).



# Strategic goal 3

## Minimise the State’s exposure to rehabilitation liabilities

We are minimising the State’s exposure to potential rehabilitation liabilities if authority holders fail to fulfil their regulatory obligations. We are doing this by more accurately identifying rehabilitation liabilities and setting bonds to cover 100 per cent of the estimated rehabilitation cost. We are also taking follow-up action through a compliance program.

The improvements are being delivered via a progressive and orderly transition process, thereby providing opportunities and time for authority holders to improve their rehabilitation planning and adjust their operations.

Our initial focus continues to be reviewing the rehabilitation liabilities and bonds for high risk sites, sites undergoing major expansion or ownership changes and sites with a gap between the known rehabilitation liability and bond.

### Overview of actions we have delivered

- **Developed and updated rehabilitation bond calculator and methodologies.** We undertook an extensive review and CPI update of the Bond Calculator in 2019-2020, drawing on independent specialist advice and in consultation with key stakeholders. The update enables exploration,

mine and quarry authority holders to assess their rehabilitation liabilities with greater accuracy. Further information is available on [Rehabilitation Bond Calculator](#).

A new initiative provides all mine and quarry operators a voluntary option to review their rehabilitation liability and bond annually, allowing them to:

- set bonds at a level that aligns with the actual status of site development, rather than reflecting the maximum site development and rehabilitation liability,
- reduce bond costs in the early stages of site extraction, when operators are seeking to recover their development costs,
- reduce bond costs in the latter stages of site extraction to recognise any progressive rehabilitation.

Earth Resources Regulation is adopting a ‘farm extension’ type of engagement approach to assist operators who chose this voluntary option.

- **Initiated a program of rehabilitation bond reviews.** We are implementing a progressive risk-based program of rehabilitation liability assessments and bond reviews, with the initial focus on:
  - Priority high risk sites considering the likelihood and consequence of an authority holder defaulting,
  - Sites subject to applications for major expansion of extraction,



- Sites subject to applications for the transfer of ownership or surrender of the authority (including sites under the control of an appointed administrator),
- Sites where the self-reported rehabilitation liability is substantially greater than the current bond.

Authority Holders of priority sites have been notified along with details of the rehabilitation bond calculator and the overall implementation program.

We will provide educational outreach and guidance to all other operators to:

- Help them identify and assess their rehabilitation liabilities
- Make use of the annual rehabilitation liability and bond review
- Share case studies of how other operators are managing their rehabilitation liabilities.
- **Target compliance and enforcement of rehabilitation obligations at priority sites.** We report quarterly on our performance and have expanded our range of dashboards and reports to assist community and industry to have confidence in the sector. For further information visit [Regulatory Performance Reporting](#).
- **Developing and updating the States Contingent Liability obligations.** Contingent liability is reported annually in the Department Jobs, Precincts and Regions (DJPR) [Annual Report](#). Contingent liability is the cost the state could become responsible for if operators fail to rehabilitate their earth resource sites. The Contingent liability is expected to continue to increase for a few years before decreasing, as the regulator continues to improve its regulatory practice for site rehabilitation across all resource sectors. This includes delivering the commitment to identify rehabilitation liabilities and set bonds more accurately, in line with the State's standing policy for authority holders to lodge a rehabilitation bond to cover 100 per cent of the estimated rehabilitation cost.
- **Conduct rehabilitation works if authority holder defaults.** We are exercising the State's legislative powers to conduct site rehabilitation in the event an authority holder, authorised since 1990, fails to fulfil their obligation to rehabilitate a site<sup>1</sup>. If an authority holder fails to meet their obligations, we'll ensure rehabilitation is completed to protect communities and the environment. For example, we are undertaking monitoring and rehabilitation work at the former [Bendigo Gold](#) and continuing monitoring and maintenance at the former [Benambra Sites](#).

## Strategic goal 4

### Be a best practice regulator

We continue to build on the work done following the Victorian Commissioner for Better Regulation's *Getting the Groundwork Right* report by applying a risk-based regulatory approach to rehabilitation. We are also managing our information more effectively and transparently.

#### Overview of actions we have delivered

- **Standardised risk assessments for earth resource sites.** Earth Resources Regulation has standardised site level rehabilitation risk assessments to ensure that it is addressing key risks to the sector. Standardised risk assessments uses the risk rating, site risk profiles and associated evidence base, to guide the assessment of rehabilitation liabilities and bonds for exploration, mine, quarry and other earth resources sites. We have also developed the governance controls to provide Earth Resources Regulation with the necessary legislative powers to ensure land is returned to a safe, stable, and sustainable form.
- **Improving management of public records.** We established an information and data strategy for the next ten years and developed user protocols for storing documents involved in the rehabilitation and bond processes. The first steps have focused on improving governance around archiving and retrieving data through implementing a digitisation processes, retirement of legacy systems, and de-aggregating functions. We improved business intelligence tools ([Power BI ERR Dashboards](#)) to ensure data driven decision making across different platforms for use by the sector and community.
- **Improving how we work with co-regulators and other government departments.** We have updated [Memoranda of Understanding](#) with the Environment Protection Authority and the Department of Environment, Land, Water and Planning. These agreements set out how we will work together to facilitate co-regulation of earth resources sites to protect people and the environment. A key feature of the memorandum of understanding between EPA and Earth Resources Regulation facilitates the optimal use of scientific and regulatory capability to ensure improved regulatory outcomes. The signed Memoranda are available [here](#) and joint procedures between the organisations are currently being developed.

<sup>1</sup> The powers for the State to undertake site rehabilitation are established in the *Mineral Resources (Sustainable Development) Act 1990*.

- **Improving Stakeholder Engagement.** We have established a new Earth Resources Regulation Industry Reference Group to provide forum for engagement between the regulator and earth resources industry about regulatory and industry practices.

Additionally, we are planning to conduct thematic forums involving a wider group of stakeholders to discuss key matters of interest. Participants will be invited from a range of interests relevant to each topic, such as:

- Local government
- Traditional Owners
- Major interest groups such as environmental and farming organisations
- Catchment management and water authorities
- Community groups.

## Further Information

More information about the policy and procedures for the regulation of site rehabilitation are available on our website: [Rehabilitation - Earth Resources](#).

We also welcome feedback on our regulatory performance, including suggestions for improvements. Feedback can be sent to: [Contact us - Earth Resources](#).

