

Tasmanian Geological Survey
Record 2013/05

The Tasmanian security deposit system for mining and exploration tenements

Introduction

The purpose of this document is to provide a clear description of the Tasmanian security deposit system for mining and exploration tenements.

Mining in Tasmania will be carried out under the principles of sustainable development.

The cost of rehabilitation and aftercare will be borne by the company or individual causing or taking responsibility for the disturbance.

A system of security deposits will be used to ensure that mine sites are adequately rehabilitated so that there are no remaining environmental or safety hazards requiring remediation in the event of failure by the company or individual to carry out its mine site remediation obligations.

The system of security deposits will be open and transparent and will treat all parties equally.

The system will be agreed between government and industry.

The system will have the following characteristics:

- The security deposit will be sufficient to meet the full costs of closure and aftercare, and will protect the government and the community from closure liabilities.
- The security deposit system will encourage progressive rehabilitation.
- The security deposit will reflect current liabilities and will be regularly reviewed, and may be reduced based on progressive rehabilitation.
- The security deposit system will be financially efficient. A range of options for surety purposes will be recognised. The cost of locking away working capital as a surety will be recognised.
- Existing operations will not be disadvantaged and forced to close prematurely by the security deposit system.
- The system will be risk based and the quantum of the security deposit will be levied taking into account an operation's track record, past performance, financial strength and investment rating.

The security deposit system will be consistent with those in other Australian jurisdictions.

The security deposit system will be transparent, with stakeholders being consulted on the objectives of closure of individual operations. There will be formal reporting via closure plans and regularly reviewed Environmental Management Plans. Accepted accounting standards should be the basis of financial provisions for environmental work by companies.

The security deposit system will be administered by Mineral Resources Tasmania (MRT), a division of the Department of Infrastructure, Energy and Resources.

Legislative Requirements

Applicants must lodge security deposits with the Crown before the Minister can grant either an exploration licence,

special exploration licence, retention licence or a mining lease (*Mineral Resources Development Act 1995* S17A, S39, S53 and S78A).

The reason for insisting on a security deposit is to ensure that there will be sufficient funds available for remediation of the exploration or mining site should the operator default on his/her obligations. Security deposits are calculated on the basis of an estimate of disturbance and the likely costs of rehabilitation.

Security deposits are held by MRT and can be reviewed at any time.

Generally the level of a security deposit is assessed:

- When an application is made for an exploration licence, retention licence or a mining lease.
- On a regular basis to ensure that the security deposit reflects the current level of disturbance and likely costs of remediation:
 - Every five years for level 1* operations;
 - Every three years for level 2* operations; and
 - As otherwise determined by the Minister, in line with developmental phases of an operation (including production of closure and exit plans).
- On renewal or transfer of a lease.

Use of Security Deposits

The Minister may use all or part of any security deposit for the following purposes:

- (a) To remedy any damage to private property if the licensee or lessee fails to pay compensation as provided by the Act.
- (b) To mitigate any damage to the environment caused by mining operations or exploration activities, should a licensee fail to do so.
- (c) To provide for the cost of depositing core not deposited as required under the Act.
- (d) To make safe a hazard caused by operations under a mineral tenement.

The Minister may also confiscate part or all of a security deposit should a licensee fail to carry out an agreed exploration program, or should a licensee or lessee fail to comply with a condition of the lease or licence, or a requirement of the *Mineral Resources Development Act 1995* such as filing annual and other reports. Poor performance may be penalised by loss of part of the security deposit.

In practice lessees and licensees are given the opportunity to meet the outstanding obligations before the security deposit is seized.

Where a lessee has paid a security deposit which is sufficient to cover all outstanding rehabilitation requirements, consideration will be given for allowing some of the security deposit money to be used for agreed rehabilitation works, so that an operator does not have to 'pay twice' for rehabilitation.

* as per definitions under the Environmental Management and Pollution Control Act 1994

Security deposits may be reviewed at any time and either increased or decreased to reflect the current liabilities of the operator. Security deposits will be reviewed at the time of review of an environmental management plan or at a change in the scale of the operation. Operators may request a review or one may be initiated by MRT.

Lodgement of Security Deposits

The government has call on the funds made available by the security deposit.

Acceptable forms of security deposits include:

- Cash.
- Bank guarantee: this must be an unconditional irrevocable and 'pay on demand' guarantee.

Calculation of the Security Deposit

The granting of the security deposit is based on the likely level of disturbance and the probable costs of remediation and decommissioning, carried out by a third party at commercial rates, should the operator fail to meet these obligations.

Exploration Licences

The security deposit assessment for exploration licences is based on a standard amount (currently \$5000) plus a levy per square kilometre (currently \$20), a levy based on a percentage of the first two years proposed expenditure (currently 1%) and, if required, an extra levy if the licence is in a remote area which may generate higher access costs for rehabilitation.

As a licence progresses through time the security deposit may be adjusted to reflect the current level of disturbance and remediation obligations.

A security deposit must be held against each licence.

Smaller Mining Leases

The security deposit for small/standard quarry operations will be calculated on the basis of risk. Adequate documentation will reduce the 'risk'. The security deposit is to reflect the costs of components of potential remediation, such as:

- Earthworks (spreading soil, drainage works).
- Treatment of compacted areas (roads, benches, recontouring, ripping).
- Revegetation and maintenance costs (sowing, planting, weed control, erosion control).

In addition, sums will be added to the security deposit for mobilisation of equipment, and the treatment of difficult areas (high faces, over-size rock dumps, etc.).

Security deposit calculations are generally as follows:

- \$200 per hectare for lease area if on Crown Land.
- \$5,000 per hectare for quarries which have good access.
- \$10,000 per hectare for more remote or larger sites.

- \$20,000 per hectare for contaminated sites (e.g. pyritic tailings), sensitive environments, etc.

Larger/complicated mine sites

The security deposit required on large and complex sites is determined by costing the various components of remediation that would be required to address the current level of disturbance at the site if the operators defaulted on their obligations.

Larger operations are usually worked in accordance with an Environmental Management Plan (EMP) (as required under the provisions of the *Environmental Management and Pollution Control Act 1994*).

Closure plans should be available for all larger operations. These plans, with itemised costings of rehabilitation works, are to be used as a basis for calculating the security deposit. The security deposit will be reviewed to ensure it is adequate in conjunction with the three-yearly reviews of the EMP. The level of rehabilitation being undertaken will be considered in any review, as well as the costings in any closure plan.

The costing of the required rehabilitation is to be based on the cost of the contractors and not the mine operator. Costings of individual items in a closure plan may be adjusted to take this into account.

Transitional Provisions

Many of the larger mine sites in Tasmania include areas of historical disturbance. Acid mine drainage is a legacy from some historical workings. The security deposits on most of the larger operators are insufficient to cover the cost of the current on-site liabilities, in the form of both current disturbance and historical legacies. It is thought that the liabilities at some sites may amount to \$20–30 million, while the security deposits which are held are only for \$2–3 million. Clearly, it will be impossible for a company to increase the security deposit ten-fold over a short period of time.

In these circumstances the following steps will be taken:

1. Closure plans will be produced or updated, providing a basis for the eventual scope of works at the end of mine life. The closure plan will include a timetable for remediation, including an annual budget. The sum which is to be spent on closure will be specified in the closure plan. This will be reported regularly in site EMPs submitted to the Department of Environment, Parks, Heritage and the Arts.
2. An estimate of the total liability and remediation cost, including addressing historical legacies where possible, will be made, with an understanding that this sum will not be paid as a security deposit.
3. An estimate will also be made of current environmental liabilities arising from the current operators activities. This will form the basis for the security deposit in the first instance.
4. The closure plan will set out a process and timetable for matching the security deposit to the rehabilitation and

decommissioning liability. This may be by reducing the liability, or increasing the security deposit, or both.

5. An operator may elect to pay an additional sum when royalties are paid; this additional sum will be added to the security deposit.

New Operations

A closure plan is to be developed as part of the mine planning process.

For new operators, the security deposit will be progressively increased as the scale of the work increases. In other words, the security deposit will be payable in stages,

to reflect the current remediation liability as the mine progresses.

Tailings Dams

One security deposit specifically exists for the long-term maintenance of a dam. Mining companies have been advised that where a tailings dam is to be abandoned a portion of the security deposit will be retained to provide funds for dam surveillance and routine maintenance (e.g. where acid generation will be managed by a permanent water cover).

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