

○ *Post-approval requirements for State significant
mining developments*

October 2015

Annual Review Guideline

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Preliminary

Operators of State significant mining developments are required to prepare an Annual Review that provides a summary of the performance of the operation over the relevant reporting period (generally the preceding calendar year).

The Annual Review is submitted to regulators and made available to the community via the operation's website.

Purpose

The *Annual Review Guideline* has been developed to assist operators of State significant mining developments in the preparation of an Annual Review.

By following these guidelines, operators will meet¹:

- the Annual Review requirements of the Department of Planning and Environment under the conditions of a development consent or project approval;
- the Environmental Management Report requirements of the Division of Resources & Energy under the conditions of a mining lease; and
- the routine reporting expectations of DPI Water.

The Annual Review is not intended to be an exhaustive description of the operation, its approvals or activities. It should focus on information that is relevant to understanding the compliance status of the operation with respect to the development consent and mining lease.

Reporting framework

The Integrated Mining Policy includes three post approval guidelines that relate to a mine operator's reporting requirements. These are the:

- Annual Review Guideline;
- Independent Audit Guideline; and
- Web-Based Reporting Guideline.

These guidelines are important elements of the Government's compliance and enforcement framework – they provide for regular, transparent reporting of an operation's consistency with its approval conditions. The Annual Review and web-based reporting are 'self-reporting' mechanisms that are reviewed by the regulator. Independent audits occur on a periodic basis as determined by the approval conditions or in response to a specific incident or trigger. Regulators conduct ongoing compliance and enforcement activity across the industry, which leverages these reporting mechanisms to oversight the compliance status of a mining operation.

¹Where development consent or mining lease conditions require additional reporting obligations that are not incorporated within this guideline, those obligations must still be met in a manner agreed with the relevant regulator.

Importantly, it should be noted that:

- the Web-Based Reporting Guideline is not mandatory. However, operators are encouraged to apply these guidelines to ensure they meet the transparency standards expected by the Government and the community; and
- where there is any inconsistency between the post approval guidelines and the conditions placed on an operation's approval, the conditions will prevail.

Given that the conditions on existing approvals prevail over the guidelines, some operators may be required to report on matters not covered by reporting guidelines. In such cases, operators should consult with relevant regulators to ensure appropriate reporting of all issues required by approval conditions. The approach should be agreed, in writing, and allow for appropriate public access to data.

Although these three guidelines are components of a single reporting framework, the operator, in complying with the guidelines, should always consider the intended audience and aim to inform in the simplest, most transparent manner possible. A reader of web-based data should not, for example, need to refer to specific sections of an Annual Review in order to understand the context of the web data. Similarly, the reader of a hardcopy Annual Review should not need to refer to the operator's website for context on the basic characteristics of a mine. This may result in some minor duplication between the website and the Annual Review, but this is considered essential to ensure transparent, relevant and contextualised reporting, and the same content may be usable in each case.

Detailed monitoring data should not be included in the Annual Review unless it is necessary to understand other information contained within the report². Monitoring data should be reported on the operation's website consistent with the *Web-Based Reporting Guideline*³.

An Environment Protection Licence Annual Return is also currently required to be submitted separately to the Environment Protection Authority. The Government is working to improve alignment between the Annual Review and Annual Return.

² In the event that monitoring data is critical to understanding the analysis in the Annual Review, that data should be provided in summary form in the body of the report, or included in appendices.

³ The Web-Based Reporting Guideline clarifies that, in order to comply with consent conditions, monitoring data must either be hosted online or provided, in parallel to the Annual Review, through another method negotiated with DPE.

Definitions

For the purposes of this guideline:

<i>DPE</i>	means the NSW Department of Planning and Environment.
<i>DPI Water</i>	means the Division of Water within the NSW Department of Primary Industries.
<i>DRE</i>	means the Division of Resources & Energy within the NSW Department of Industry.
<i>EPA</i>	means the Environment Protection Authority.
<i>Mining operation</i>	means a development which is the subject of an authorisation under the <i>Mining Act 1992</i> and a consent or approval under the <i>Environmental Planning and Assessment Act 1979</i> .
<i>MOP</i>	means a Mining Operations Plan required under the conditions of a mining lease.
<i>Operation</i>	means a mining operation.
<i>Operator</i>	means the entity that holds the relevant approvals for a given mining operation. Where the operator does not operate the mine, it is expected that the operator will consult closely with the entity operating the mine in preparing the Annual Review.
<i>Relevant approval</i>	includes the following approvals where they are material to the conduct of the operation: a development consent, project approval, mining lease or water access licence.
<i>Reporting period</i>	means a calendar year, unless specified otherwise in the relevant conditions of approval or agreed in writing with DPE and DRE.
<i>RMP</i>	means a Rehabilitation Management Plan or equivalent plan required under the conditions of a relevant approval.
<i>WAL</i>	Water Access Licence

Annual Review

Application

This guideline applies to all State significant mining operations in NSW that are required to prepare an Annual Review or Environmental Management Report under the conditions of a relevant approval.

In accordance with the conditions of these approvals, operators are required to complete an Annual Review for each reporting period, until the relevant approval expires or otherwise lapses, regardless of the operational status of the mine (unless otherwise agreed in writing with DPE and DRE, or specified in the relevant approval).

Specific annual reporting requirements in the relevant approval

In addition to complying with this guideline, the operator must still comply with any specific requirements relating to annual reporting in the relevant approvals.

Reporting period

An Annual Review must be prepared in respect of each reporting period (typically a calendar year), unless otherwise agreed in writing by DPE and DRE. For all new projects or modifications, there will be a single reporting date for both agencies. Existing project operators can request that Government ensure the alignment of reporting dates across both agencies.

Length

The Annual Review should be a maximum of 50 pages in length (not including plans/figures). Further information may be appended if necessary.

Lodgement

The Annual Review must be supplied to DPE and DRE not later than 60 calendar days after the end of each reporting period, unless another lodgement date is specified in the relevant approval(s).

Where the operator is unable to complete a part of the Annual Review by the due date because of circumstances beyond the operator's control, the operator must notify DPE and DRE in writing as soon as practicable, and in any event not later than the due date. The notification must specify the relevant circumstances that were beyond the control of the operator and request a new date for lodgement of the Annual Review.

Content Requirements for an Annual Review

Title Block

The title page of the Annual Review should include a title block consistent with **Table 1**.

Table 1 – Annual Review title block

Name of operation	
Name of operator	
Development consent / project approval #	
Name of holder of development consent / project approval	
Mining lease #	
Name of holder of mining lease	
Water licence #	
Name of holder of water licence	
MOP/RMP start date	
MOP/RMP end date	
Annual Review start date	
Annual Review end date	
<p>I, [INSERT AUTHORISED REPORTING OFFICER NAME], certify that this audit report is a true and accurate record of the compliance status of [INSERT OPERATION NAME] for the period [INSERT REPORTING PERIOD] and that I am authorised to make this statement on behalf of [INSERT OPERATOR NAME].</p> <p><i>Note.</i></p> <p>a) <i>The Annual Review is an 'environmental audit' for the purposes of section 122B(2) of the Environmental Planning and Assessment Act 1979. Section 122E provides that a person must not include false or misleading information (or provide information for inclusion in) an audit report produced to the Minister in connection with an environmental audit if the person knows that the information is false or misleading in a material respect. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000.</i></p> <p>b) <i>The Crimes Act 1900 contains other offences relating to false and misleading information: section 192G (Intention to defraud by false or misleading statement—maximum penalty 5 years imprisonment); sections 307A, 307B and 307C (False or misleading applications/information/documents—maximum penalty 2 years imprisonment or \$22,000, or both).</i></p>	
Name of authorised reporting officer	
Title of authorised reporting officer	
Signature of authorised reporting officer	
Date	

1 Statement of compliance

The Annual Review is required to incorporate a statement of compliance which includes summary tables similar to **Table 2** and **Table 3** that highlight the compliance status of the operation with its relevant approval conditions, as at the end of the reporting period.

Table 2 – Statement of compliance

Were all conditions of the relevant approval(s) complied with?	
DC #	YES/NO
ML #	YES/NO

If any conditions of the relevant approvals were not complied with, the non-compliances should be identified by completing **Table 3**. The terms 'partial compliance', 'partial non-compliance' or similar should not be used in the Statement of Compliance. An operation is either compliant or non-compliant.

Table 3 – Non-compliances

Relevant approval	Condition #	Condition description (summary)	Compliance status	Comment	Where addressed in Annual Review
DC #	#	e.g. Production rate	Non-compliant		Page #
DC #	#	e.g. Operating hours	Non-compliant		Page #
ML #	#	e.g. Rehabilitation	Non-compliant		Page #
ML #	#	e.g. Reporting	Non-compliant		Page #

Compliance status key for Table 3

Risk level	Colour code	Description
High	Non-compliant	Non-compliance with potential for significant environmental consequences, regardless of the likelihood of occurrence
Medium	Non-compliant	Non-compliance with: <ul style="list-style-type: none"> potential for serious environmental consequences, but is unlikely to occur; or potential for moderate environmental consequences, but is likely to occur
Low	Non-compliant	Non-compliance with: <ul style="list-style-type: none"> potential for moderate environmental consequences, but is unlikely to occur; or potential for low environmental consequences, but is likely to occur
Administrative non-compliance	Non-compliant	Only to be applied where the non-compliance does not result in any risk of environmental harm (e.g. submitting a report to government later than required under approval conditions)

2 Introduction

This section of the Annual Review should:

- provide a brief introduction to the mine and its associated operations;
- include maps of the operation showing the regional context (aspects relevant to the community such as residential areas or other key relevant land uses), development consent boundary, mining lease boundaries, current operational disturbance footprint, and any offset areas; and
- provide names and contact details of the key personnel who are responsible for the environmental management of the operation.

3 Approvals

The Annual Review should list all approvals currently held by the operator, which are relevant to the operation, and any changes to those approvals that occurred during the reporting period.

4 Operations summary

Mining operations

For mining operations the Annual Review should summarise, for the reporting period, the items identified in **Table 4** below.

Table 4 – Production summary

Material	Approved limit (specify source)	Previous reporting period (actual)	This reporting period (actual)	Next reporting period (forecast)
Waste Rock / Overburden				
ROM Coal / Ore				
Coarse reject				
Fine reject (Tailings)				
Saleable product				

Where inconsistencies arise between the approved limit and actual production for the reporting period, the reasons for this should be explained.

Other operations

The Annual Review should also report against all other relevant operational conditions of the relevant approvals, including hours of operation and transport rates.

Next reporting period

The Annual Review should briefly outline forecast operations for the next reporting period, in particular significant changes in the mine, such as:

- pit expansion areas;
- infrastructure development/upgrades; and
- mining fleet upgrades.

5 Actions required from previous Annual Review

This section should include a table that identifies any actions required as an outcome of the previous Annual Review, including any actions that have been undertaken and when those actions were completed.

An example of the table to be included in the Annual Review is provided as **Table 5**.

Table 5 – Actions from the previous Annual Review

Action required from previous Annual Review	Requested by	Action taken by the Operator	Where discussed in Annual Review
	Operator		Page #
	DPE		Page #
	DRE		Page #

6 Environmental performance

The Annual Review should report on the environmental outcomes that were intended for the reporting period and whether these were achieved. This section should identify and include any requirements under relevant management plans which are not specifically dealt with under other sections of the Annual Review (e.g. [7 Water management](#) and [8 Rehabilitation](#)).

Particular consideration should be given to individually summarising the outcomes achieved in the reporting period for the following environmental aspects:

- noise;
- blasting;
- air quality;
- biodiversity⁴; and
- heritage (Aboriginal and non-Aboriginal).

In summarising the outcomes achieved, the following details must be included (but not limited to):

- identification of any key environmental performance or management issues that arose during the year and how they were addressed;
- implementation of environmental management measures (e.g. archaeological salvages, biodiversity offset implementation, noise attenuated equipment implemented, upgrades to water management system, temporary stabilisation works); and
- proposed improvements to environmental management or performance.

⁴ The operator should consider any relevant reporting requirements under the *NSW Biodiversity Offsets Policy for Major Projects*.

The Annual Review should include summary analyses of environmental monitoring data where relevant. These summaries should:

- compare the data to predictions made in the Environmental Impact Statement;
- identify trends in the data; and
- identify any management implications.

The information provided in this section should be tabulated where practical, similar to the example provided in Table 6.

Table 6 – Environmental performance

Aspect	Approval criteria / EIS prediction	Performance during the reporting period	Trend / key management implications	Implemented/ proposed management actions
Noise				
Blasting				
Air quality				
Biodiversity				
Heritage				

7 Water management

The Annual Review should report on the water taken by the operation in the previous water year (1 July – 30 June). This should be reported in a form similar to Table 7.

Table 7 – Water take

Water Licence #	Water sharing plan, source and management zone (as applicable)	Entitlement ⁵	Passive take / inflows	Active pumping	TOTAL

In addition, the Annual Review should provide a summary of water monitoring results, discharges, salinity trading scheme credit use and any other matter outlined in the Water Management Plan, including the provision of any “compensatory water” to other users.

8 Rehabilitation

Rehabilitation performance during the reporting period

The Annual Review should incorporate a summary of the rehabilitation performance of the operation against the rehabilitation targets in the Mining Operations Plan (MOP) / Rehabilitation Management Plan (RMP) and the proposed schedule outlined in the development consent. This summary should:

- Identify the status of mining and rehabilitation at the completion of the reporting period on an appropriate plan showing:
 - the extent of mining and rehabilitation activities;
 - surface contours; and
 - rehabilitation vegetation type;
- Identify the agreed post rehabilitation land use(s);

⁵ Any trades undertaken during the period should be noted.

-
- Report against the key rehabilitation performance indicators as per **Table 8** below;
 - Describe any renovation or removal of buildings, including:
 - their nature, construction, heritage status and condition;
 - any health and safety issues related to renovation or removal (e.g. asbestos);
 - any contamination issues during and subsequent to renovation or removal;
 - future use agreements or options; and
 - ongoing maintenance requirements;
 - Describe any other rehabilitation undertaken, including:
 - exploration activities;
 - infrastructure;
 - shafts;
 - adits;
 - dams; and
 - the installation or maintenance of fences, bunds, and any other works;
 - Identify whether any rehabilitation areas on site have received formal sign-off from DRE that the appropriate land use objectives and completion criteria have been met;
 - Identify any variations in activities undertaken to those proposed in the MOP/RMP, the reasons for those variations, whether or not DRE was notified, and any actions agreed with DRE to address these issues;
 - Outline the outcomes of trials, research projects, and other initiatives undertaken during the reporting period to enhance or assure rehabilitation outcomes; and
 - Include an overview of key issues that may affect the ability to successfully rehabilitate the site and any management measures being implemented to address these issues (e.g. acid mine drainage, landform instability, weed infestation etc.).

Supporting photographs and diagrams should be included where appropriate.

Actions for the next reporting period

The Annual Review should:

- Where final rehabilitation outcomes and the strategies to achieve them have not yet been agreed between stakeholders - describe the steps that will be undertaken to progress agreement during the next reporting period;
- Outline proposed rehabilitation trials, research projects, and other initiatives to be undertaken during the next reporting period. Where final rehabilitation outcomes have been further developed since the MOP/RMP was submitted, or since the previous Annual Review, the outcomes should be described; and
- Include a summary of rehabilitation activities proposed for the next report period.

Supporting photographs and diagrams should be included where appropriate.

Table 8 – Rehabilitation status

Mine Area Type	Previous Reporting Period (Actual)	This Reporting Period (Actual)	Next Reporting Period (Forecast)
	Year X-1(ha)	Year X (ha)	Year X+1 (ha)
A. Total mine footprint ⁶			
B. Total active disturbance ⁷			
C. Land being prepared for rehabilitation ⁸			
D. Land under active rehabilitation ⁹			
E. Completed rehabilitation ¹⁰			

Please note that temporary rehabilitation undertaken for the purposes of dust or erosion control and not for the purpose of establishing the intended post mining land use must be accounted for as part of the “Total active disturbance” area (B) rather than the rehabilitation figures for areas C, D and E in Table 8.

9 Community

The Annual Review should include a brief summary of:

- any community engagement activities or initiatives that have been undertaken during the reporting period;
- any community contributions;
- the number of community complaints received during the reporting period compared to previous years;
- any trends in regards to the subject, timing or location of complaints; and
- any actions undertaken or proposed as an outcome of the complaints.

⁶ **Total mine footprint** includes all areas within a mining lease that either have at some point in time or continue to pose a rehabilitation liability due to mining and associated activities. As such it is the sum of total active disturbance, decommissioning, landform establishment, growth medium development, ecosystem establishment, ecosystem development and relinquished lands (as defined in DRE MOP/RMP Guidelines). Please note that subsidence remediation areas are excluded.

⁷ **Total active disturbance** includes all areas ultimately requiring rehabilitation such as: on-lease exploration areas, stripped areas ahead of mining, infrastructure areas, water management infrastructure, sewage treatment facilities, topsoil stockpile areas, access tracks and haul roads, active mining areas, waste emplacements (active/unshaped/in or out-of-pit), and tailings dams (active/unshaped/uncapped).

⁸ **Land being prepared for rehabilitation** – includes the sum of mine disturbed land that is under the following rehabilitation phases – decommissioning, landform establishment and growth medium development (as defined in DRE MOP/RMP Guidelines).

⁹ **Land under active rehabilitation** - includes areas under rehabilitation and being managed to achieve relinquishment – includes the following rehabilitation phases as described in the DRE MOP/RMP Guidelines – “ecosystem and land use establishment” (area seeded OR surface developed in accordance with final land use) and “ecosystem and land use sustainability” (revegetation assessed as showing signs of trending towards relinquishment OR infrastructure development).

¹⁰ **Completed rehabilitation** – requires formal sign-off by DRE that the area has successfully met the rehabilitation land use objectives and completion criteria.

10 Independent Audit

This section of the Annual Review should briefly:

- identify whether an Independent Audit was conducted during the reporting period;
- if an Independent Audit was undertaken within the reporting period, outline the key audit outcomes;
- discuss progress made in implementing the Action Plan developed as an outcome of the most recent Independent Audit; and
- identify when the next Independent Audit is scheduled.

11 Incidents and non-compliances during the reporting period

This section of the Annual Review should expand on the information provided under section 1 Statement of compliance and:

- detail the particulars of any non-compliance;
- identify the date when the non-compliance occurred, if applicable;
- if relevant, identify the precise location where the non-compliance occurred (using maps or diagrams as appropriate);
- detail the cause of the non-compliance;
- detail what action has been, or will be, taken to mitigate any adverse effects of the non-compliance; and
- detail what action has been, or will be, taken to prevent a recurrence of the non-compliance.

This section of the Annual Review should also include:

- a description of any reportable incidents or exceedances;
- a summary of any official cautions or warning letters, penalty notices or prosecution proceedings by any regulatory agency;
- a summary of the operator's response to any official cautions or warning letters, penalty notices or prosecution proceedings; and
- general commentary on any actions undertaken to prevent the recurrence of any reportable incidences or exceedances.

12 Activities to be completed in the next reporting period

The Annual Review should identify any measures to be implemented in the next reporting period to improve the environmental or community performance of the operation.

Operators are expected to seek to continuously improve environmental and community performance, taking account of lessons learnt from previous reporting periods, evolving technologies, government and community feedback, and available best practice that may be feasible to apply to the operation.

This section should also identify:

- the timeline for implementation of these measures;
- whether any management plans will need to be revised to reflect these measures; and
- any action resulting from a condition of a relevant approval that will be triggered in the next reporting period.