

The Tasmanian bond system for mining and exploration tenements

The purpose of this document is to provide a clear description of the Tasmanian bond 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 bonds 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 bonds 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 bond will be sufficient to meet the full costs of closure and aftercare, and will protect the government and the community from closure liabilities.
- The bond system will encourage progressive rehabilitation.
- The financial surety will reflect current liabilities and will be regularly reviewed, and may be reduced based on progressive rehabilitation.
- The bond 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 bond system.
- The system will be risk based and the quantum of the bond will be levied taking into account an operation's track record, past performance, financial strength and investment rating.

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

The bond 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 bond system will be administered by Mineral Resources Tasmania.

Legislative Requirements

Applicants must lodge security deposits (bonds) with the Crown before the Minister can grant either an exploration licence, retention licence or a mining lease (*Mineral Resources Development Act 1995* S14, S53 and S75).

The reason for insisting on a security deposit (bond) 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. Bonds are calculated on the basis of an estimate of disturbance and the likely costs of rehabilitation.

Bonds are held by Mineral Resources Tasmania, a division of the Department of Infrastructure, Energy and Resources. Bonds can be reviewed at any time.

Generally the level of a bond 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 bond 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 for Infrastructure, Energy and Resources, in line with developmental phases of an operation (including production of closure and exit plans).
- On renewal or transfer of a lease.

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

Use of Bonds

The Minister for Mines 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.

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

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

Bonds may be reviewed at any time and either increased or decreased to reflect the current liabilities of the operator. Bonds 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 Financial Security Deposits

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

Acceptable forms of financial security deposits include:

- Cash*
- Term Deposit*: issued in the name of the Minister for Infrastructure, Energy and Resources, held in trust for the lessee/licence holder.
- Bank guarantee*: this must be an unconditional irrevocable and 'pay on demand' guarantee.

Calculation of the Financial Security (Bond)

The granting of the bond 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 bond 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 bond may be adjusted to reflect the current level of disturbance and remediation obligations.

Discount for multiple Exploration Licences

Where a company holds more than one licence, the Minister may consider a discount on the value of the individual bonds as a 'company bond', where it can be demonstrated that this does not increase the exposure of the Crown to potential remediation obligations.

Smaller Mining Leases

The bond for small/standard quarry operations will be calculated on the basis of risk. Adequate documentation will reduce the 'risk'. The bond 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 bond for mobilisation of equipment, and the treatment of difficult areas (high faces, over-size rock dumps, etc.).

Bond 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 bond required on large and complex sites is to be 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 (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 bond. The bond will be reviewed to ensure it is adequate in conjunction with the three-yearly reviews of the DPMP. 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 bonds 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 bonds which are held are only for \$2–3 million. Clearly, it will be impossible for a company to increase the bond 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 EMP's submitted to DPIWE.
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 bond.

3. An estimate will also be made of current environmental liabilities arising from the current operators activities. This will form the basis for the bond in the first instance.
4. The closure plan will set out a process and timetable for matching the bond to the rehabilitation and decommissioning liability. This may be by reducing the liability, or increasing the bond, or both.
5. An operator may elect to pay an additional sum when royalties are paid; this additional sum will be added to the bond.

New Operations

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

For new operators, the bond will be progressively increased as the scale of the work increases. In other words, the bond will be payable in stages, to reflect the current remediation liability as the mine progresses.

Tailings Dams

One bond 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 bond 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).

[21 November 2005]
[amended 6 September 2006]