

Senate Environment & Communications References Committee

Inquiry into the rehabilitation of mining and resources projects as it relates to Commonwealth responsibilities

Written Questions on Notice – Department of Industry, Innovation & Science **August 2018**

COAG Energy Council working group report on mine rehabilitation issues

In evidence to the committee on 14 February 2018 (Hansard pp. 6-7), representatives from the department noted that the COAG Resources and Engagement Working Group was planning on providing a report to Energy Ministers in March 2018, covering issues including: leading approaches to financial assurances for mine rehabilitation; and data collection, management of risk assessment, site prioritisation and management of legacy mines.

1. Please provide the committee with an update on the status of this report:
 - a. Has the report been provided to Energy Council Ministers? If so, when was it provided? If not, when is it expected to be provided?
 - b. Will this report be made public? If so, when is it expected to be made public? If not, why not?
2. What possible responses could arise from the Energy Council's consideration of this report? What is the expected timeframe for action from the Energy Council?

COAG Energy Council investigation regarding site rehabilitation financial obligations

As discussed at the committee's hearing on 14 February, the COAG Energy Council noted in its communique of 24 November 2017 that Western Australia had highlighted issues regarding mine site rehabilitation financial obligations and associated interpretations within the Corporations Act and the Australian Accounting Board Standards. Ministers further agreed that an investigation of a nationally consistent approach to these issues would be undertaken by the Resources and Engagement Working Group, to report back to Ministers by mid-2018.

1. Please provide the committee with an update on the status of this investigation by the Resources and Engagement Working Group.
 - a. Has the Resources and Engagement Working Group reported back to Ministers on this issue? If so, when did this occur? If not, when is this expected to occur?
 - b. What are the next steps in this process following the provision of a report back to Energy Council Ministers?
2. What specific changes to the Corporations Act and Australian Accounting Board Standards are being considered as part of this investigation?

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COAG Energy Council working group report on mine rehabilitation issues

1. Please provide the committee with an update on the status of this report:

a. Has the report been provided to Energy Council Ministers? If so, when was it provided? If not, when is it expected to be provided?

No. Due to unforeseen delays with the supplier and membership changes, the final report has now been postponed. We anticipate that the report will be finalised in early 2019.

b. Will this report be made public? If so, when is it expected to be made public? If not, why not?

Yes. It will be made public following its endorsement by the COAG Energy Council which is expected to occur in early 2019.

2. What possible responses could arise from the Energy Council's consideration of this report? What is the expected timeframe for action from the Energy Council?

Until the Report is finalised and presented to the COAG Energy Council's Resource Policy Group, for consideration, we are not in a position to answer this question.

COAG Energy Council investigation regarding site rehabilitation financial obligations

1. Please provide the committee with an update on the status of this investigation by the Resources and Engagement Working Group.

a. Has the Resources and Engagement Working Group reported back to Ministers on this issue? If so, when did this occur? If not, when is this expected to occur?

On 10 August 2018 the Resources Policy Group advised COAG Energy Council Ministers that it had completed its considerations regarding financial obligations for mine site rehabilitation. Council was advised that it was the Resources Policy Group's position that issues around financial provisioning for mine site rehabilitation are best dealt with at the jurisdictional level. The Group also established a set of *National Principles for Managing Rehabilitation Risks*, which provide guidance to jurisdictions to ensure financial provisioning is robust and minimises a state/territory's exposure to unmet rehabilitation obligations. The principles will be applied at the discretion of the jurisdiction.

The *National Principles for Managing Rehabilitation Risks*, was endorsed by Energy Council Ministers on 10 August 2018. A copy of the Principles is attached.

b. What are the next steps in this process following the provision of a report back to Energy Council Ministers?

Not applicable

2. What specific changes to the Corporations Act and Australian Accounting Board Standards are being considered as part of this investigation?

None. The onerous property provisions of the *Corporations Act 2001* (Cth) and inadequate financial provisioning for rehabilitation and closure were noted as common national issues. However all jurisdictions agreed that the issues associated with mine site rehabilitation and associated financial obligations are best dealt with at a jurisdictional level.

All jurisdictions agreed that jurisdictional risks are to be managed individually, through strengthening of existing regulatory frameworks, including more robust monitoring and reporting processes, detailed and updated rehabilitation planning and progressive on-ground rehabilitation requirements. Such actions will reduce jurisdictional exposure to unmet site rehabilitation and closure obligations. Some jurisdictions have already begun examining existing frameworks and progressing reforms.

In respect of Australian Accounting Standards, no specific changes have been proposed. The Australian Accounting Standards Board has agreed to future consideration of options to upgrade closure and rehabilitation reporting requirements in the Australian Accounting Standards at an aggregate level. Any consideration of changes to the standards will need to ensure consistency with international standards is maintained and minimise any further perception by users that existing requirements are already onerous.

National Principles for Managing Rehabilitation Financial Risks

Background and Purpose

Consent granted by a state/territory to develop a mineral/petroleum resource includes an obligation to appropriately manage the site for environmental risks and to rehabilitate sites to an acceptable environmental and safety standard once extraction activity ceases.

To ensure companies have the financial capacity to meet rehabilitation and closure obligations, states and territories implement compliance mechanisms. These mechanisms include financial assurance requirements in the form of a bond, levy or bank guarantee as part of the approval process. These securities are held so that in circumstances where a company cannot meet its rehabilitation and closure obligations the state or territory has access to funds to remediate the site to an acceptable environmental and safety standard. However, accessing these securities to carry out rehabilitation works are not an optimal outcome environmentally or economically as it exposes the state/territory to additional costs. The optimal outcome is for mine operators to plan and undertake their site rehabilitation obligations.

The following principles provide a nationally consistent approach under which state/territories apply individual mechanisms/processes to ensure companies meet their rehabilitation and closure obligations.

Principles

These seven principles target the effective management of a proponent's ability to meet financial obligations for mine/petroleum site rehabilitation and closure.

Principle 1

Responsibility rests with the tenement holder to ensure mine/petroleum site rehabilitation and closure obligations are fulfilled and managed in accordance with individual state/territory legislation and approval and monitoring processes.

Principle 2

Robust mine rehabilitation and closure plans are established before project commencement and endorsed by the state/territory body administering mine/petroleum site compliance.

Principle 3

Notwithstanding the obligation for tenement holders to rehabilitate mine sites, state/territories should hold financial securities for rehabilitation and closure. These being set at levels that reflect the level of disturbance and risk of the operation, minimising the state/territory's financial exposure.

Principle 4

Robust risk-based mechanisms are in place to ensure cost estimates for rehabilitation and closure remain current and accurate throughout the life of the project.

Principle 5

Rigorous and continuous monitoring processes are applied for the early identification of any potential risk that a company may not be able to fulfil its rehabilitation and closure obligations.

Principle 6

Mechanisms, including legislation, are developed to monitor and apply financial obligations for rehabilitation and closure with consideration given to the interaction of state/territory and Commonwealth legislation.

Principle 7

Financial assurance policy and mechanisms should incentivise progressive rehabilitation, improved rehabilitation and closure planning, and final rehabilitation towards a beneficial final landform.