

A close-up photograph of a green plant branch with several leaves, positioned on the left side of the page. The background is a blurred natural setting with green foliage and a large sheet of blue corrugated metal.

Earth Resources Regulation

# Regulatory Practice Strategy for the Rehabilitation of Earth Resources Sites

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.

Victorian quarries, mines and other earth resources activities also provide important business and job opportunities, especially in regional areas.

Extracting earth resources requires careful regulation to identify and manage risks, while supporting responsible operators and the jobs they generate.

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.

To do so, it is important to consider how resource extraction sites can be returned to a safe, stable and sustainable landform, at each stage of the resource life cycle, rather than once extraction is complete.

Site operators can improve the way they consider the range of rehabilitation landform options, engage with the community and work progressively towards the preferred rehabilitated landform.

Equally, as the regulator we recognise that we need to do more to improve site rehabilitation by approving better rehabilitation plans, estimating rehabilitation liabilities and setting bonds, and enforcing rehabilitation requirements.

This strategy outlines our approach and the actions we are taking to reinvigorate our regulatory practice for site rehabilitation over the next two years, by using the available legislative tools and resources to best effect.

Our strategy builds on the Victorian Government's initiatives to improve the regulation of earth resources activities, including:

- the introduction of the *Mineral Resources (Sustainable Development) Amendment Act 2019*, which strengthens rehabilitation requirements and introduces new 'post closure' arrangements for declared mines after extraction is complete,
- new regulations for the minerals exploration and mining sector, which require improved rehabilitation of all other mine sites, and
- new regulations for quarries (extractive resources).

We will continue to refine our regulatory strategy based on practical experience, including feedback from industry, other regulators and community members.



# Strategic objective and goals

**Our strategic objective is to achieve site rehabilitation for mines, quarries and other earth resources activities including exploration 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 authority holders default, and**
- **Being a best practice regulator.**

We will ensure site rehabilitation is considered at all stages of the resource life cycle. We will focus our efforts to ensure that the highest rehabilitation risks are managed effectively.

We recognise that some authority holders proactively engage, plan and undertake effective site rehabilitation – we will use their example to encourage best practice rehabilitation by others. At the same time, we will hold authority holders to account if they do not fulfil their rehabilitation obligations.

We will also equip our regulatory staff to deliver the policies, procedures and other requirements necessary to improve the regulation of site rehabilitation.

We will provide clear, consistent advice and guidance to authority holders to enable them to understand and meet their rehabilitation obligations.





# Strategic goal 1

## Protect people, land, infrastructure and environment

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

Our actions include:

### 1. Prepare an overarching rehabilitation policy

We will prepare and publish a clear operational policy that identifies authority holders' legislative obligations for site rehabilitation. The policy will set out better practice for planning and undertaking rehabilitation at each stage of the resource extraction life cycle, assessing rehabilitation liabilities and setting rehabilitation bonds. It will provide an option for authority holders to request more frequent bond reviews to encourage and recognise progressive rehabilitation. The current standard approach is to require authority holders to lodge a bond for the works specified in their approved work plan (or on a per hectare basis for simple operations). The new option should help to incentivise authority holders to undertake earlier rehabilitation planning and works to reduce their bond costs, by enabling them to align their rehabilitation liabilities and bond values at specific points in time during a project's life.

The policy will also specify the types of financial bond instruments acceptable under different circumstances.

Additionally, we have introduced a new operational policy for assessing the standing of applicants as a 'fit and proper person' to hold an exploration or mining licence in Victoria<sup>1</sup>, which takes account of their record in fulfilling their site rehabilitation obligations.

### 2. Encourage better rehabilitation practice and transparency

We will ensure authority holders engage with their local communities in preparing and implementing their site rehabilitation plans. We will also encourage them to make their plans publicly available in line with their duty to consult the community. We will also prepare a series of case studies to highlight best practice approaches to rehabilitation planning, consultation and implementation.

### 3. Develop closure guidelines

We will develop guidelines to assist authority holders to develop objectives and criteria that will need to be met to relinquish a site after rehabilitation, in accordance with the recently amended minerals and extractives regulations.

# Strategic goal 2

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

We will regulate to ensure that land is returned to a safe, stable and sustainable form. We will do this by 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.

Our actions include:

### 1. Implement updated earth resources regulations to achieve better rehabilitation

The minerals and extractives regulations have recently been updated requiring rehabilitation plans to set out the milestones to achieve a landform that is safe, stable and sustainable, including measures to control identified risks.

We will work with authority holders as they prepare and implement better rehabilitation plans.

### 2. Establish rehabilitation plan guidelines

We will develop guidelines to assist authority holders to prepare high-quality rehabilitation plans that meet regulatory requirements and achieve high-quality rehabilitation outcomes. The guidelines will set out what authority holders need to show in their rehabilitation plan, including how we will interpret the safe, stable and sustainable requirement in the regulations.



# Strategic goal 3

## Minimise the State's exposure to rehabilitation liabilities

We will minimise the State's exposure to potential rehabilitation liabilities if authority holders fail to fulfil their regulatory obligations. We will do this by more accurately identifying rehabilitation liabilities and setting bonds, 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. We will also take follow-up action with a more effective compliance program.

Our actions include:

### 1. Develop and update rehabilitation bond calculators and methodologies

This action will be undertaken in two steps:

- Update the rehabilitation bond calculator for mines and quarries to reflect the most up-to-date estimate of costs associated with common rehabilitation activities.
- Undertake a broader review of the way that bonds are set and any resultant adjustments to the bond calculator.

### 2. Initiate a program of rehabilitation bond reviews

We will initiate a program of rehabilitation bond reviews to ensure that the bonds held by the State are consistent with the updated estimate of rehabilitation liabilities for each authority holder. We will work with authority holders who have self-reported rehabilitation liabilities that are larger than their existing bonds to adjust their bonds, subject to providing them an opportunity to review their rehabilitation estimate. We will prioritise sites for rehabilitation bond reviews using a risk-based approach that considers both the likelihood of an operator defaulting on their rehabilitation obligations and the consequence of their default on people, land, the environment and infrastructure.

We will not link bond reviews to any minor changes to authority holders' work plans so as not to disincentivise their efforts to improve their operations.

### 3. Target compliance and enforcement of rehabilitation obligations at priority sites

We will prioritise and conduct compliance action to direct the operators of sites that have ceased operations or nearing the cessation of operations to fulfil their rehabilitation obligations.

### 4. Conduct rehabilitation works if authority holders default

We can exercise the State's legislative powers to conduct site rehabilitation after exhausting the available means to require authority holders to fulfil their obligations. We may do so on a case-by-case basis guided by our focus on protecting people, land, infrastructure and the environment.

# Strategic goal 4

## Be a best practice regulator

We will build upon the implementation of recommendations of the Victorian Commissioner for Better Regulation's *Getting the Groundwork Right* report, by applying a risk-based regulatory approach to rehabilitation and managing our information effectively and more transparently.

Our actions include:

### 1. Develop rehabilitation risk profiles for the earth resources sector

We will develop an up-to-date profile of the risks associated with rehabilitation across the earth resources sector. We will use this information to inform a risk-based approach to the regulation of site rehabilitation activities and outcomes.

### 2. Clarify rehabilitation management and regulation roles and responsibilities

We will publish information about the roles and responsibilities of authority holders, ourselves and other regulators for the rehabilitation of earth resources sites, as well as provide opportunities for community members to get involved in rehabilitation planning. We have also clarified the roles and responsibilities of relevant staff within Earth Resources Regulation.

### 3. Build regulatory capability for site rehabilitation

We have established two new senior positions dedicated to assessing rehabilitation liabilities and setting bonds and conducting more frequent on-site oversight of rehabilitation works. We are also reviewing our future capability requirements to ensure that we have access to specialist skills for assessing site rehabilitation, such as in geotechnical engineering and hydrogeology.

### 4. Establish clear procedures and training for regulatory staff to ensure consistent application of policies and practice

We will continue to develop standard operating procedures to enable the rehabilitation policies to be applied consistently. These procedures will be supported by a comprehensive training program for staff.

### 5. Improve management of public records

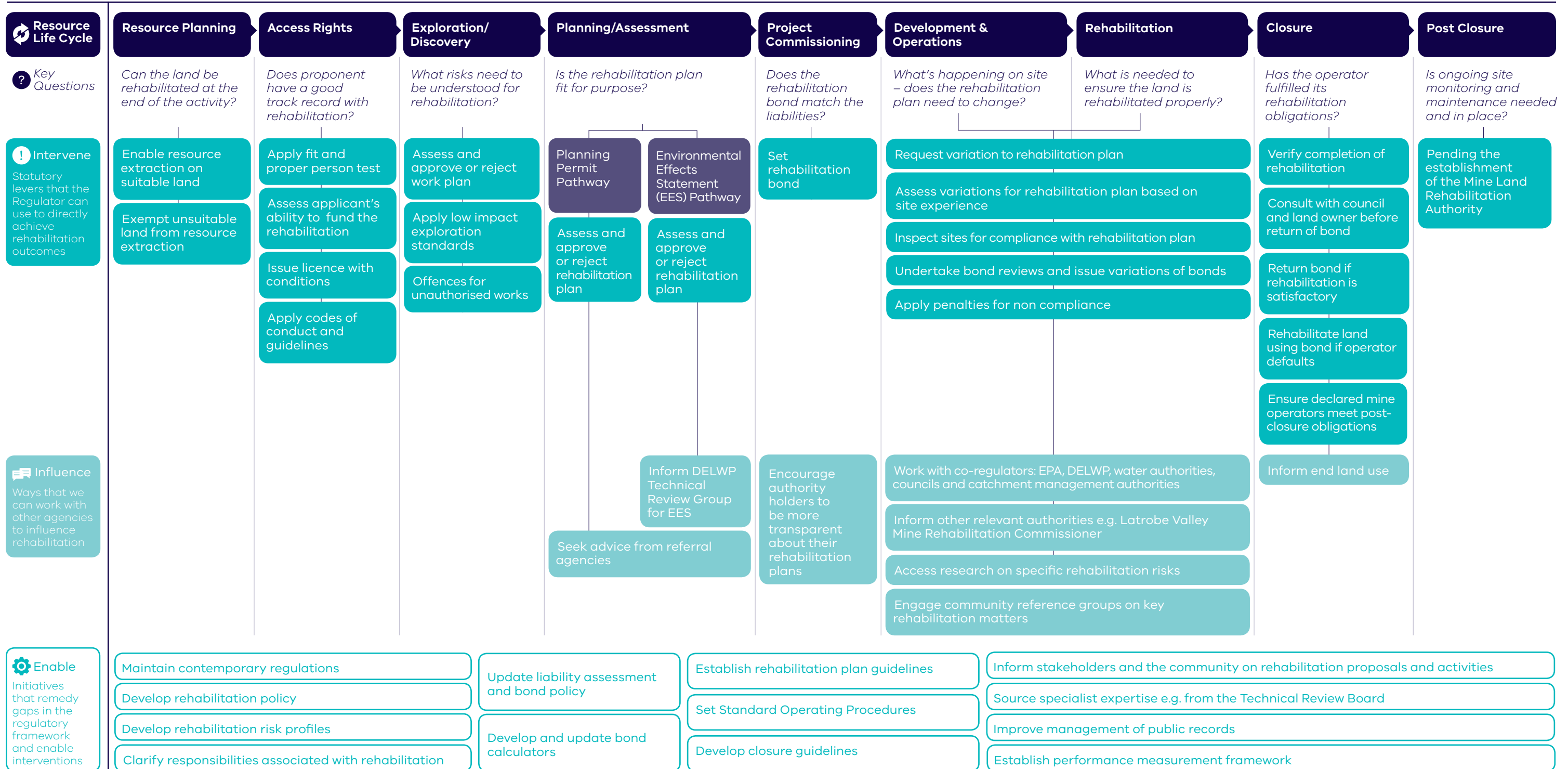
We will identify 'fit for purpose' records management repositories for the regulator's records, supported by the development of up-to-date procedures and training to maintain records consistently.

# Earth Resources Regulation – Rehabilitation Strategy

**Vision** Rehabilitation of mines, quarries and other earth resources sites meets government and community expectations

**Strategic goals** Protect people, land, environment and infrastructure after resource extraction    Ensure land is returned to a safe, stable and sustainable landform    Minimise the State's exposure to rehabilitation liabilities    Be a best practice regulator

**Intermediate goals** Encourage effective rehabilitation planning    Apply a risk-based approach to rehabilitation    Encourage progressive rehabilitation    Inform land holders and community on rehabilitation requirements    Accurately identify rehabilitation liabilities    Ensure rehabilitation bonds match liabilities    Collaborate effectively with co-regulators    Manage public records effectively and transparently





# Monitoring, evaluation and reporting on our delivery of this Strategy

**We are committed to monitoring and evaluating the success of this strategy by establishing clear indicators to assess the extent of improvement in site rehabilitation outcomes over time.**

We will also actively track progress on our committed actions to ensure that we maintain momentum and deliver on our commitments. We will report publicly.

## Feedback welcome

**We are committed to continuous improvement. We will adapt our approach to regulating site rehabilitation in response to government policy and legislative reform, industry and community feedback and practical experience over time.**

If you have ideas about how we can further improve earth resources rehabilitation, please contact us at [rehabilitation@ecodev.vic.gov.au](mailto:rehabilitation@ecodev.vic.gov.au)

You can also find more information about how we regulate earth resources in Victoria on our website at [www.earthresources.vic.gov.au](http://www.earthresources.vic.gov.au)

