GOVERNMENT OF WESTERN AUSTRALIA

Department of **Mines, Petroleum and Exploration**

Policy

Mining Securities Policy – Administration for compliance with environmental conditions

Pursuant to: sections 103AV and 126 of the *Mining Act 1978*

Version 3.0
May 2026

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Document Hierarchy

Legislation	*Mining Act 1978* Mining Regulations 1981
Policy	This document
Procedures	Mining Securities Procedure – March 2026

Version History

Version	Date	Changes
1.0	May 2014	Initial Publication
2.0	December 2020	Revised policy scope of relevant considerations
3.0	May 2026	Consequential amendments due to *Mining Amendment Act 2022*

Purpose

This document outlines the Department of Mines, Petroleum and Exploration (DMPE) policy for administering additional mining securities under sections 103AV and 126 of the *Mining Act 1978* (Mining Act) for compliance with environmental conditions.

This policy should be read in conjunction with the "Mining Securities Procedure – Administration for compliance with environmental conditions".

Objectives

The objectives of this document are:

- to identify the relevant circumstances in which mining securities may be required, varied, retained or discharged;
- to describe the form of security that will generally be required by the Minister; and
- to inform how DMPE will calculate the amounts to be required as mining security.

Introduction

DMPE's environmental regulatory objective is that resource industry activities are designed, operated, rehabilitated and closed in an ecologically sustainable manner, consistent with agreed environmental outcomes and post-mining land uses, without unacceptable liability to the State.

Section 103AU(1) of the Mining Act provides that the Minister may impose conditions on a mining tenement for the following purposes:

a) preventing, reducing or remediating injury to land the subject of the mining tenement or other land; and

b) preventing or reducing the impact of mining on the statutory or public purposes for which land to which section 24 or 24A applies is reserved or managed, or remediating such land.

In addition, section 103AO(4) of the Mining Act provides that the Minister may impose conditions on a mining approval.

The purpose of a mining security is twofold:

i) to help ensure tenement holders' compliance with environmental conditions imposed on their tenements; and

ii) to ensure that the State and mining industry is not exposed to unacceptable costs should tenement holders fail to meet the mine closure requirements and environmental conditions on their tenements.

With all forms of mining security, the legal obligation to comply with conditions imposed upon the tenement and to undertake mine closure resides with the tenement holder. The mining security is in place to support compliance with these obligations and provide financial assurance to the State.

Mining securities do not in any way relieve the tenement holder from meeting their closure and rehabilitation obligations. Tenement holders are reminded that when a tenement with a mining security obligation is transferred, the obligation to lodge a mining security is also transferred to the new tenement holder.

Legislation

Section 126 of the Mining Act provides for the administration of the amount, method and discharge of mining securities.

a. Mandatory Security

Under section 52(1), 60(1), 70F(1) and 84A(1) an applicant is required to lodge a security for compliance with the conditions imposed on the tenement.

b. Additional Discretionary Security

In addition, the Minister responsible for the Mining Act (the Minister) or the Minister's delegate may require the lodgement of additional mining securities for compliance with any conditions imposed under sections 103AO(4) or 103AU(1) (additional discretionary security). Generally, this additional security will be required to be in the form of an Unconditional Performance Bond (UPB).

This policy only applies to the additional discretionary security for compliance with environmental conditions.

Context

Prior to the commencement of the Mining Rehabilitation Fund (MRF) in 2013, the principal means of ensuring tenement holders' compliance with environmental conditions was through imposing mining securities pursuant to the Mining Act. Most mines in Western Australia were required to have lodged mining securities in the form of a UPB prior to the commencement of mining. The majority of these UPBs were retired when these tenements entered into the MRF.

The *Mining Rehabilitation Fund Act 2012* (MRF Act) does not limit the Minister's ability to require mining securities under the Mining Act on tenement holders for each mining tenement for obligations to meet their agreed environmental commitments. In addition, the requirement for a mining security does not affect the operation of the MRF Act.

Policy

1. Considerations in decisions to require, vary the amount, discharge or retain a mining security

A mining security on a tenement may be required, varied, retained or discharged by a decision of the Minister or the Minister's delegate under the Mining Act.

This policy provides guidance in relation to the consideration of when to require, vary, retain or discharge a mining security. New or increased mining securities will be recommended when DMPE considers that there is a heightened risk of:

- the tenement holder not complying with their environmental conditions; and
- rehabilitation liability reverting to the State.

Matters that will be considered when assessing the above risks include but are not limited to:

- the location and type of activities being undertaken in relation to the risk those activities pose to the environment;
- the tenement holder or controlling business entity is under administration, listed in liquidation, has a notice of winding up application or order, is under a deed of company arrangement, scheme of arrangement or deregistration;
- the tenement holder is, or has previously been, subject to an enforcement action under the Mining Act for failure to comply with environmental obligations (e.g. Direction to Modify, Stop Work Order or forfeiture action);
- the extent to which a tenement holder has complied with its environmental obligations (including compliance with tenement conditions and environmental obligations under the Mining Act);
- whether the site that is in operation has an approved mine closure plan in accordance with the requirements of the Mining Act; and
- the extent to which progressive closure or rehabilitation activities have been undertaken in accordance with approvals.

If DMPE or the tenement holder subsequently considers that the risk has changed or is different to that identified at the time a mining security was previously required, a review may be initiated that may result in the mining security being retained, varied or discharged in whole or in part.

To seek a discharge or partial discharge of a mining security, tenement holders must submit to DMPE an application for discharge in accordance with regulation 112A of the Mining Regulations 1981.

2. Form

Under current policy, a UPB is generally the only form of mining security accepted. A UPB is a guarantee issued by a financial institution in favour of the Minister that may be called in on by the Minister at will. The Minister is not obligated to discharge a UPB. A template form is available on the wa.gov.au website.

The Minister will only accept UPBs that are issued by financial institutions that are listed by the Australian Prudential Regulation Authority as an Approved Deposit-taking Authority under the categories:

- Australian-owned authorised deposit-taking institutions; and
- Foreign Subsidiary Banks.

UPBs issued by financial institutions that do not meet this criteria will not be accepted.

3. Factors to be considered when determining the amount of mining security required

The amount of the required mining security (UPB) will generally be calculated by reference to the MRF category unit rates (see Schedule 1, clause 1 to the Mining Rehabilitation Fund Regulations 2013). The calculation may also take into account risk factors or information available to DMPE.

If a requirement for, or an increase to, a mining security is proposed, DMPE will provide tenement holders with information explaining how the amount of the mining security was calculated.

Glossary

Delegate

An officer of DMPE who has been delegated powers and/or functions of the Minister through a written instrument executed by the Minister and is presently authorised to exercise these powers and/or functions.

Discharge

The Minister's (or the Minister's delegate's) decision to remove the requirement for a tenement holder to provide a security. This is also commonly called 'retirement' of a security.

Enforcement of a mining security

Where the Minister determines, in writing, that a mining security is to be used for the environmental conditions as set out in section 103AO(4) or 103AU(1) of the Mining Act.

Environmental condition

- Conditions which may be imposed upon the grant of a mining tenement or at any subsequent time for the purpose of preventing, reducing or remediating injury to land the subject of a mining tenement or other land, or to prevent or reduce the impact of mining on the statutory or public purposes for which land to which section 24 or 24A of the Mining Act applies is reserved or managed, or remediating such land.
- Conditions imposed under section 103AO(4) of the Mining Act.

Mine Closure Plan

A document defined under section 103AR of the Mining Act.

Mining Security

A legislated security obligation required by the Government on Mining Act tenement holders that is specific to individual tenements for compliance with environmental conditions. The Minister requires mining securities to be in the form of unconditional performance bonds.

Retain

The decision not to discharge a mining security on a mining tenement.

Unconditional Performance Bond or UPB

The form of mining security required by the Minister (or the Minister's delegate) which must be specific to individual tenements. An Unconditional Performance Bond is a guarantee issued by a financial institution in favour of the Minister that may be called in on by the Minister at will. The Minister is not obligated to discharge an unconditional performance bond.

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