GOVERNMENT OF WESTERN AUSTRALIA

Department of **Mines, Petroleum and Exploration**

Procedure

Mining Securities Procedure – Administration for compliance with environmental conditions

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

Version 3.0
May 2026

Contents

Purpose **3**
Objectives **3**
Introduction **3**
Legislation **4**
Context **4**
Procedure **5**
1. Procedure to review mining securities requirement (including DMPE initiated reviews) 5
2. Requesting the discharge of existing mining securities 6
Glossary **7**

Document Hierarchy

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

Version History

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

Purpose

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

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

Objectives

The objectives of this document are:

- to provide guidance on the DMPE administrative procedures relating to the requirement of, variation to, retention of and discharge of mining securities;
- to describe the process by which the form of security that will generally be required by the Minister is to be provided; and
- to inform tenement holders of the process to request the discharge of an existing 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.

The purpose of mining securities is twofold:

i) to help ensure tenement holders' compliance with 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, and 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

Under section 103AV(1) of the Mining Act, the Minister, or the Minister's delegate, may require lodgment of additional mining securities for compliance with any conditions imposed under sections 103AO(4) or 103AU(1) of the Mining Act (environmental conditions).

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

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 an Unconditional Performance Bond (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.

Procedure

1. Procedure to review mining securities requirement (including DMPE initiated reviews)

The application of a mining security will be considered on a case-by-case basis and managed to ensure a fair and transparent decision-making process.

1.1 When DMPE initiates a mining security review, tenement holders will be notified and provided with information on the reasons and environmental risks that have led to DMPE initiating a mining security review. Tenement holders will be invited to respond and provide information to address these matters and assist in the review.

1.2 DMPE will review and consider the information provided by the tenement holders. If the tenement holder provides evidence that adequately addresses the matters that prompted the initiation of the security review, the review will be halted and no security will be applied. If the tenement holder does not provide sufficient evidence that the matters have been addressed, the review process will continue and an 'intention letter' will be issued. The letter will outline the reasons the information provided did not adequately address DMPE's concerns and the proposed level of new or increased security. Tenement holders will be provided with a set timeframe in which to respond to the notification and provide any additional information.

1.3 DMPE will then consider any new information. The delegate may at any time refer the matter to the Minister for determination.

1.4 The Minister or delegate will then determine whether a mining security should be required and to what amount.

1.5 If the Minister or the delegate determines that a new or replacement mining security should be required, the tenement holder will be notified that a new mining security is required and provided with a timeframe in which to comply. Current policy provides that it will generally be required in the form of a UPB. A template form is available on the wa.gov.au website. Please note, only UPBs that are issued by financial institutions that are listed by the Australian Prudential Regulation Authority as an Approved Deposit-taking Authority under the following categories will be accepted:

- 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.

1.6 Failure to lodge the required security in the required form and manner will render the tenement(s) liable to forfeiture.

2. Requesting the discharge of existing mining securities

A tenement holder who is required to maintain a mining security may submit a written request that the mining security be discharged pursuant to regulation 112A of the Mining Regulations 1981 (Mining Regulations). The request must provide evidence that indicates and substantiates that the relevant risk factors have now been mitigated or eliminated.

2.1 An application to remove a mining security must be accompanied by the following information in accordance with regulation 112A of the Mining Regulations:

a) a statutory declaration stating the extent that the person making the statutory declaration has complied with the conditions imposed on the tenement, and with the provisions of the Mining Act and regulations and include details of the nature of that compliance; and

b) a map showing

(i) the location of the workings of the person making the statutory declaration;

(ii) the boundaries of the workings; and

(iii) the access routes to the workings.

2.2 The Minister or delegate will consider requests made by the affected tenement holder and determine if there are sufficient grounds for triggering a review of the mining security (as outlined in Part 1).

2.3 The tenement holder will be notified if a mining security review is initiated, or provided with feedback if insufficient information has been provided.

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.

Enforcement of a mining security

Where the Minister (or delegate) determines, in writing, that a mining security is to be used for the environmental conditions as set out in sections 103AO(4) and 103AU 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 imposed 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.

Workings

A general term referring to the activities undertaken on a tenement.

Government of Western Australia

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