
Rehabilitating Mines

Tabled 5 August 2020



This audit looked at whether the state is effectively managing its exposure to liabilities through the rehabilitation of Victorian mines.

We examined how the Department of Jobs, Precincts and Regions (DJPR) and its Earth Resources Regulation (ERR) unit regulates mining rehabilitation.

We also examined how DJPR works with other agencies, including the Department of Environment, Land, Water and Planning (DELWP), the Environment Protection Authority Victoria (EPA) and local agencies.

We found that DJPR is not effectively regulating mining rehabilitation, exposing the state to significant financial risk. Some sites have been poorly or not rehabilitated at all, posing risks to Victorians and the environment.

Systemic failures include ERR using outdated cost estimates, not reviewing bonds for sufficiency, returning bonds before confirming rehabilitation has been completed; approving inadequate rehabilitation plans; and a lack of enforcement activities.

ERR acknowledges it has not effectively discharged its responsibilities and in mid-2018 started specifically addressing rehabilitation issues.

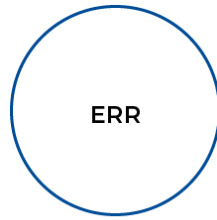
There is also a clear conflict of interest with the mining regulator, ERR, residing within DJPR, which fosters and develops the mining industry.

Mining and quarrying help grow our economy.

However, once mining has finished, sites must be rehabilitated to address erosion and prevent toxic contamination of land and waterways.

Rehabilitation is expensive, so the state requires operators to pay a bond. If an operator does not restore a site, the state can use this to cover rehabilitation costs.

ERR is responsible for regulating rehabilitation, including approving operations, setting and reviewing bonds, monitoring progressive rehabilitation, and returning bonds.



Outdated cost estimates



Not reviewing bonds for sufficiency



Returning bonds before confirming rehabilitation has been completed



Approving inadequate rehabilitation plans



Lack of enforcement activities

ERR holds \$813 million in bonds—75 per cent for three Latrobe Valley coal mines and the balance for 1 391 sites across Victoria.

But it estimates that this is at least \$361 million short of actual rehabilitation costs. This is due to ERR's outdated costing tools and that there are up to 578 sites with no bond at all.

Despite a requirement to do so, ERR has not reviewed over 90 per cent of bonds, and it is also unable to demonstrate that it ensures sites are fully rehabilitated before returning bonds.

Contrary to its policy, ERR placed a moratorium (or a pause) on bond reviews between 2013 and 2017. The lack of documented authorisation for this breaches transparency and accountability principles, and the decision clearly benefited operators.

ERR is not fully meeting its legislated responsibilities.

Rehabilitation plans for many sites lack detail. Our review suggests that over half of all approved plans do not comply with regulations.

Limitations in ERR's monitoring means it is largely unaware of whether operators undertake rehabilitation works. To date, it has not issued any enforcement notices for rehabilitation breaches.

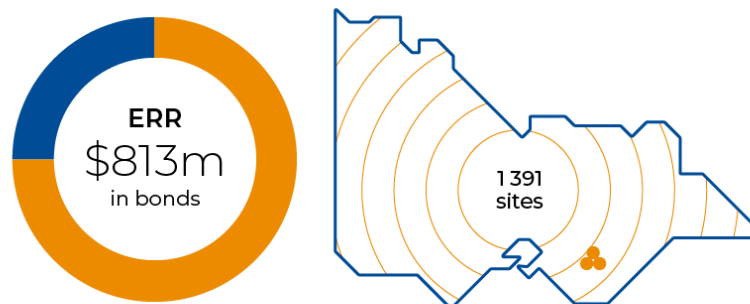
ERR is also not effectively managing inactive mines and quarries. These are sites with operators on record that are no longer operating and yet to be rehabilitated. Without proper regulation, a site may be left unrehabilitated indefinitely.

Abandoned and legacy mines present environmental, public health and safety risks, but there is no statewide or proactive approach to managing them.

Neither ERR nor DELWP has comprehensive records on these sites.

The 2016 Independent Inquiry into the EPA noted that ERR's regulation of mining-activities was not to the same level as other like-industries. It flagged conflict of interest concerns due to ERR's status as a unit of DJPR that promotes mining investments.

Issue 1



ERR must now refer mining work plan applications to the EPA. However, this is unlikely to address conflict of interest concerns as most regulatory responsibilities, including compliance with environmental conditions, still lie with ERR.

ERR has begun to address identified weaknesses in its regulatory approach.

It has further work to do to ensure its policies and guidance documents, staff resourcing, and information management system fully support its regulatory responsibilities. It also needs to update its memoranda of understanding with DELWP and EPA, including detailing roles and responsibilities.

We made 10 recommendations:

- 1 on bond management
- 3 on regulation practices
- 5 on governance arrangements, and
- 1 on addressing conflict of interest.

For further information please view the full report on our website www.audit.vic.gov.au.