

Information Sheet

Environmental Protection Act 1994

Non-Use Management Areas

1 Introduction

The Queensland Government's Mined Land Rehabilitation Policy ensures that land disturbed by mining activities is rehabilitated to a safe and stable landform that does not cause environmental harm to achieve a post-mining land use (PMLU). Land disturbed by mining activities must be rehabilitated progressively as it becomes available, to minimise the risks of environmental impacts and reduce cumulative areas of disturbance. Where a PMLU is not achievable or able to be sustained, a non-use management area (NUMA) may be approved when strict criteria are met.

To implement this policy the *Environmental Protection Act 1994* (EP Act) was amended to include rehabilitation and closure planning requirements for all site-specific mines. A Progressive Rehabilitation and Closure Plan schedule (PRCP schedule) must be developed as part of a Progressive Rehabilitation and Closure Plan (PRC Plan). It is a requirement of the EP Act that all mined land must be proposed to be rehabilitated as a NUMA or as a PMLU in the PRCP schedule¹.

A NUMA is an area of land that cannot be rehabilitated to a **stable condition** after all the relevant activities for the PRC plan carried out on the land have ended. Importantly the approval of a NUMA does not reduce a mining company's responsibility to rehabilitate the land identified within the NUMA to the greatest extent possible using best practice environmental management for the area to minimise risks to the environment².

Management milestones must be implemented for a NUMA to achieve sufficient improvement of the land. **Sufficient improvement** of a NUMA means the last management milestone for the area has been achieved³. On achieving sufficient improvement the risk of land collapsing, eroding or subsiding, the need to actively manage the area (e.g. to prevent generation, and limit the release of, contaminants), and access to the area, has either been prevented or minimised to the greatest extent possible⁴.

2 Purpose

This information sheet provides a summary of the regulatory requirements for a NUMA as outlined in the EP Act, the Environmental Protection Regulation 2019 and the Progressive Rehabilitation and Closure Plan guideline. It also provides guidance to assist in the identification and assessment of a NUMA under the EP Act.

3 Proposing a NUMA

If a NUMA is proposed by a mining company it must be nominated in the PRCP schedule. A NUMA can only be nominated after all PMLU options have been assessed and it is considered that the land

¹ Section 126D(1)(a), EP Act

² Section 176A(3)(c)(ii), EP Act

³ Schedule 8A, EP Regulation

⁴ Schedule -8A, EP Regulation

cannot be rehabilitated to a stable condition. As defined by section 111A of the EP Act, land is in a **stable condition** if:

- the land is safe and structurally stable; and
- there is no environmental harm being caused by anything on or in the land; and
- the land can sustain a PMLU.

The department will not approve a PRCP schedule that includes a NUMA unless the applicant can demonstrate the proposed treatment of the land meets current best practice management, and:

1. rehabilitating the land would cause a greater risk of environmental harm than not rehabilitating; or
2. (a) the risk of environmental harm as a result of not carrying out rehabilitation of the land is confined to the area of the relevant resource tenure; and
(b) the applicant considers, having regard to each public interest consideration, that it is in the public interest for the land not to be rehabilitated to a stable condition⁵.

Where a NUMA is proposed because rehabilitating the land would pose a greater environmental risk than not rehabilitating the land, an **appropriately qualified person**⁶ must verify that the risk of environmental harm will be greater than not rehabilitating the mined land.

If a NUMA is proposed because the environmental risks from the area are confined and the cost of rehabilitation would be excessive so as not to be in the public interest, the department will require a public interest evaluation to be carried out by a **qualified entity**. The public interest evaluation must consider the benefit to the community as a result of the project, any impacts including long term impacts on the environment and community, whether there are alternative options to approving the area as a NUMA and whether the benefit outweighs the impacts to the environment and the community⁷.

A proposed NUMA must be located to prevent or minimise environmental harm. The PRC Plan must detail all reasonably practicable alternatives for the proposed NUMA location, the nature of the environmental harm that may be caused because of the proposed location and the sensitivity of the environment surrounding the NUMA's location.

Furthermore, for all new site-specific mines, a proposed NUMA that includes a void situated wholly or partially in a floodplain will not be approved⁸. If a void is proposed to be situated wholly or partially in a floodplain the void must be rehabilitated to a safe and stable landform that is able to sustain an approved PMLU that does not cause environmental harm (a stable condition).

3.1 What is a stable condition?

3.1.1 Safe and structurally stable

Land that cannot be rehabilitated to be made safe may be proposed as a NUMA. The department considers that land is safe if it is safe to humans, animals and the environment.

A NUMA may be proposed if land cannot be rehabilitated to be structurally stable. Structurally stable means the rehabilitation and restoration of the site minimises any potential collapse, erosion or subsidence. Elements of structural stability such as geotechnical, erosional, revegetation stability and integrity of built structures may be considered to determine whether an area is structurally stable.

⁵ Section 126D(2), EP Act

⁶ PRCP Guideline 2019

⁷ Section 316PA(2), EP Act

⁸ Section 126D(3), EP Act

3.1.2 There is no environmental harm being caused by anything on or in the land

Land on which there is production, or release of contaminants with the potential to cause environmental harm on or in the land, and cannot be rehabilitated to a stable condition, may be proposed as a NUMA. In these cases, the impacts of the release of contaminants must be managed by minimising the volume of contaminants generated or released, or by treating the contaminants.

It is the Department's expectation that mine waste is fully encapsulated with no evidence of seepage. Mine waste structures should be located in areas where they are unlikely to be infiltrated by groundwater. Capping and linings should prevent water movement into, and from, mine waste structures. These areas should have no exposure pathways to sensitive receptors e.g. no groundwater connectivity between pit water and adjacent groundwater. If waste materials exceed criteria in the contaminated land National Environment Protection Measures, a contaminated land assessment must be carried out during the closure program and remediation.

3.1.3 The land can sustain a PMLU

A PMLU for land the subject of a PRC plan means the purpose for which the land will be used after all relevant activities for the PRC plan carried out on the land have ended. To clarify, a PMLU must be a use that is unrelated to mining. The intention of a PMLU is that mined land must be rehabilitated to a stable condition so it is able to support another use that is unrelated to mining e.g. water storage facility where the water quality supports the proposed post-mine land use, native ecosystem habitat. Land that does not have a 'post-mining' land use must be proposed as a NUMA.

If an area cannot sustain a PMLU in the long term it does not satisfy the requirements for a stable condition and the area may be proposed as a NUMA. The department will consider the sustainability of a PMLU on a case-by-case basis taking into account site-specific considerations.

The department's expectations for best practice management of a NUMA would result in the area being made safe and structurally stable so that it causes no environmental harm, despite a post-mining land use not being achievable. A proposed NUMA that cannot satisfy one or more of these elements must be supported by evidence.

4. Residual risk

Areas that require additional ongoing management may require a residual risk payment to the department to include provision for this ongoing management.

5. Reference materials

Progressive Rehabilitation and Closure Plan Guideline (ESR/2019/4964)

'Voids in flood plains' Information Sheet (ESR/2019/4966)

Mined Land Rehabilitation Policy (DES, 2017)

6. Authorities

Environmental Protection Act 1994

Environmental Protection Regulation 2019

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Enquiries:
Please contact your relevant Business Centre if you have any enquiries in relation to this information sheet.

Version history

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