

NEW SUBSIDENCE MANAGEMENT PLAN APPROVAL PROCESS

TRANSITIONAL PROVISIONS

Introduction

The NSW Government is implementing a revised process for approvals of underground coal mining potentially causing surface subsidence. Any person proposing to undertake underground coal mining which may lead to surface subsidence will be required to prepare and submit a Subsidence Management Plan (SMP) and an application for its approval by the Director-General of the Department of Mineral Resources.

The new approval process will be applied to all new and existing underground coal mines in NSW. The new condition requiring preparation of a Subsidence Management Plan wherever underground mining will potentially lead to surface subsidence will be applied to all existing mining leases permitting underground coal mining, under section 239(2) of the *Mining Act 1992*. Current subsidence management approvals are granted under section 138(1) of the *Coal Mines Regulation Act 1982* (CMRA). The new approval process will also place significant new requirements on industry, including the undertaking of baseline environmental studies in sensitive areas. Because of these major changes in approval regime, there is the need for a transitional process.

Key principles which the Government has applied to the transitional process are the need for:

- Transparency
- Equity
- Certainty

Factors which the Government has taken into account in developing the transitional provisions are:

- Time of application (eg pre or post introduction of new process)
- Sensitivity of the area affected by the application
- Content and term of existing subsidence management approvals
- Existence and content of development consent held (if any)
- Mine scheduling requirements
- Time required to conduct any necessary baseline studies

Application of New Process to Existing Mines

The following transitional provisions will be applied.

Applications received prior to the changeover date (18 March 2004)

New applications for approvals under s. 138 CMRA received prior to 18 March 2004 will be accepted and processed under the existing approval framework, subject to the following two paragraphs.

Mines holding a development consent with a requirement for the preparation of management plans directly relating to subsidence that lodge a valid application under s. 138 CMRA prior to 18 March 2004 and which receive a s. 138 approval, either by that date or in consequence of a valid application, will not be required to lodge a further application under the new SMP process until the sunset of the s. 138 approval.

For all other mines, s. 138 CMRA approvals for valid applications lodged after the date of

notification to the leaseholder of the proposed SMP variation to the conditions of its mining lease will be limited in the following ways:

- where subsidence affects a sensitive area, then not more than one panel will be approved, other than in exceptional circumstances;
- not more than 2 panels will be approved in any other case, other than in exceptional circumstances; and
- approvals will only be granted where extraction is planned to commence not later than 18 March 2005, other than in exceptional circumstances.

Applications received after the changeover date

All applications received on or after 18 March 2004 will be processed under the new SMP approval framework. However, applications received prior to 18 March 2005 will be subject to the following limitation:

- where subsidence affects a sensitive area and less than 12 months baseline monitoring of relevant environmental values is presented, then not more than one panel will be approved, other than in exceptional circumstances.
- For all mines with conditions of development consent requiring the preparation of management plans directly relating to subsidence, the new SMP approval process will be fully integrated with those plans, in order to avoid duplication.

First Workings

First workings (headings, roadways and cut-throughs) are developed months or even years ahead of the pillar or longwall panel extraction that is the principal cause of surface subsidence. Whereas the new SMP approval process controls many first workings, the old system did not. For these reasons, there is a particular need for transitional provisions in the case of first workings which require approval under the SMP process. It should be noted that first workings associated with pillar extraction operations generally will not require SMP approval. The following provisions will apply.

First workings existing at the changeover date, and additional first workings required to give

effect to any s. 138 CMRA approval (including those granted in satisfaction of an application lodged prior to 18 March 2004), will not require approval under the new SMP process.

All other new first workings which will potentially lead to surface subsidence (ie they fall within the Guideline for Applications for Subsidence Management Approvals) are to be included within applications for SMP approval. However, it is recognised that mine development scheduling may require development of first workings before detailed SMP applications can be prepared. Consequently, no requirement for first workings to be covered by an approved SMP will arise until 18 September 2004. In addition, the Department may at its discretion consider SMP applications addressing first workings in isolation (rather than as part of an extraction layout) lodged prior to 18 March 2005.

It is also recognised that existing first workings and those additional first workings necessary for mine continuity will significantly affect future mine layout and panel orientation until new longwall domains are initiated. This will be taken fully into account by the Department and the Interagency Review Committee when considering conditions that may be applied to SMP approvals.

Existing s. 138 CMRA approvals

Since 1990, all s. 138 CMRA approvals have been granted with a sunset clause of between 2 and 5 years. Consequently, any mine operating with such an approval will be brought into the new system following the expiry of its current approvals. However, prior to 1990, s. 138 CMRA approvals (and their equivalent under the *Coal Mines Regulation Act 1912* granted prior to 26 March 1984) were issued without a sunset clause. A few mines may still hold valid approvals of this type. They will only have application where extraction, as originally approved, is not yet complete. The following provision will apply.

Existing s. 138 CMRA approvals will not be invalidated by the introduction of the new policy, with the following exception:

- any mine operating under a s. 138 CMRA approval without a sunset clause (ie those granted prior to 1990, or their equivalents granted under the *Coal Mines Regulation Act 1912*) will be required to lodge an application under the new process by 18 March 2005.

However, the Department of Mineral Resources will closely manage existing s. 138 CMRA approvals, particularly those operating beneath rivers and other sensitive areas, in order to minimise subsidence impacts and optimise environmental management outcomes. This will involve consultation with affected agencies as appropriate.

Application of New Process to New Mines

The following provisions will be applied to new mines that receive development consent after 31 December 2003. In essence, there are no transitional provisions that apply to this class of mine. The following provisions therefore apply.

Applications received prior to the changeover date (18 March 2004)

New applications for approvals under s. 138 CMRA received prior to 18 March 2004 will be accepted and processed under the existing approval framework, as currently integrated with the development consent process.

Applications received after the changeover date

All applications received on or after 18 March 2004 will be processed under the new SMP approval framework. The new process will be fully integrated with the development consent process to avoid duplication.