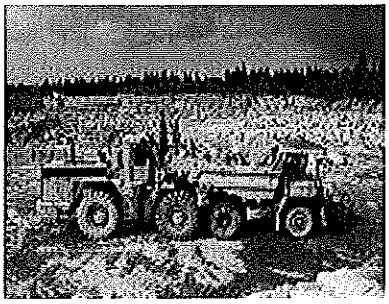

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Mining Acts Review

As a concerned and proud South Australian with over 20 years' experience in the Mining Industry followed by a further 16 years in mining regulation and now with a small consulting business mainly working for small to medium operators in the mining Industry (Extractive Minerals).

I am concerned that once again, Government is lacking in the consultation process by not notifying all leaseholders who hold Exploration and Mining leases. This review seems targeted towards the community and land holders who are important, but without the miner/investor the community dwindles.

It appears that the department has lost focus of the fact that they are Public Servants whose role is to support the mining industry (especially Mining application assessment officers (facilitators)). In previous years, the focus was on compliant regulation and working with mining operators and the community for good outcomes, but this has now become a one-sided affair in which the industry comes second.

The language and miss-information in the review document does not fill me with confidence that this exercise will reduce Red Tape! The document reads as if it wants to increase regulation and red tape. It would have been better if the documents' dot points were numbered to make response comments easier.

There are numerous small mine operators/farmers whose mining lease's supplement a small to medium business employing local people all over the state. If any of these small mine operators require a small amendment to their Approved Development Program (ADP approved under the Mines and Works Inspection Act), because their current ADP does not

comply with more recent Determinations, they have to submit a new Program for Environmental Protection and Rehabilitation (PEPR) at significant cost. The same is required for an amendment to an approved Mining and Rehabilitation Program (MARP).

A fear the industry has in making negative comments about the Mining Act and its processes, is a backlash from the department, with applications being held up, and the approval processes made more difficult.
Complaints are as important as positive feedback to allow the agencies to evolve and grow which goes hand in hand with state prosperity. Many in industry have experienced this!

I make the following comments, and if required can follow up with facts.

Late last year I had discussions with two Multi-National companies operating in this state and was concerned when they said due to the high cost of regulation and getting PEPR's approved future investment was in doubt and would be focused in the other states.

I have also been told (as have other consultants) by small to medium operators the processes are too hard and time consuming to make expansion viable.
They also said that when their existing leases have been mined out and rehabilitated they will close their business (not what this State needs!).

For many years now the industry has viewed Mining Regulation and Rehabilitation as a hindrance to state prosperity.
This has been brought about by the complexity of even a simple application, or amendment to a plan, the inconsistent assessment process, cost, and time taken to process them.

Deadlines are placed on industry to submit information, but there are no deadlines for processing and responding to applicants.
NSW (Dept. Planning & Environment – Resources and Energy) has deadlines and staff have to justify why if they don't meet their notification deadline.

Departmental Image.

The most important thing is to not only look at the red tape created by the Mining Act, but the processes put in place by the different branches within the Minerals group. The current processes slow everything down and complicate things beyond what is required. The process should be efficient, and productive. There is an opportunity for the process to make a profit by setting approval deadlines (as New South Wales have), with a win for Government, the applicant and for employment.

Departmental Staff.

Staff training of departmental staff is required to encourage understanding of the fact that are Public Servants and that without the industry or the community, they are redundant. It is not uncommon for industry people to say that they feel 'talked down to' when communicating with departmental staff (aren't treated with sufficient respect or understanding).

Discussion paper on the Mining Act 1971 and Regulations (PDF 932 MB) Misleading as was the last review and amendments approved mid-2011. Again, the language used does not make one confident that this exercise will reduce Red Tape.

1. Introduction

Mines and Works Inspection Act

- Appointment of Mine manager must be retained to ensure appropriate qualifications and (more importantly experience).
- Existing Approved Development Programs must be recognised and protected under the Mining Act without minor amendments having to go through the process of a new PEPR.
- The lease conditions on existing operations support this (I can supply examples)
- Both State and local Government borrow pits need to be regulated under this act or the Mining Act.
- There are numerous other sections of the Mines and Works Inspection act which should be retained Opals, Olympic Dam, Leigh Creek Coal mine, The Whyalla Steel Works, Penrice.

One could say the Mining Act should have been left to deal with the legal right to tenure of the land, and the Mines and Works Inspection Act deal with regulation, mine plans and the operations of mining leases / Private Mines.

The department has breached the Mining Act many times in the past which would jeopardise the legal right to mine for many companies.

Mining Act requirements:

1. Free landholder's rights to mine Extractive Minerals for their own use needs to be clarified in the review.
   Applicant should not have to contact EL, PEL, or GEL, holder's unless it is the same commodity being sought after. Mostly, you don't get any response correspondence from them. They (the EL, PEL or GEL holders) don't notify the tenement holder or land holders when they take out their licence over the land (no right to object).

2. Special approval should be available to keep an operation working if there is need to expand the lease area, (This could, and was in the past, tied in to a rehabilitation security bond).

3. Approved Development Programs (ADP's) and Mining and Rehabilitation Programs (MARP's) should be recognised under this review of the Act and its Determinations.
   It is unreasonable, and expensive, to produce new Programs for Environmental Protection and Rehabilitation (PEPR's), for small operations when they may not have an improved outcome because the existing approved plan is adequate.
   Major Development Applications do not restrict businesses growing like the current Mining Act does with all of its associated processes treated as a once-off for each application

4. A Mining Lease Proposal should be approved for small to medium sized lease operations and not be required to submit a separate PEPR Document which only increases costs and creates further time delays.

5. The Ministerial Determinations need to be reviewed as they are complicated and make for cumbersome applications for small to medium sized leases.

6. Labour / work conditions need to ensure leases where production may be campaign based (anything from weeks apart to years apart) are protected because if they aren't then this encourages illegal mining.

7. Multiple sites owned/operated by the same operator used to have in the past the right to "Exemption's" and "amalgamations" – No longer.
   However, Part 12, sec 79 ss (1) and (2) still provide for this provision.

8. Why the discrepancy with Mineral Claim registration? 63C
   (1) (b) states that the claim must be lodged with the Registrar within 14 days of pegging, but 63C (2) gives no time for the Registrar to register the claim.
   The requirement should be 30 days from pegging, and the second point's need to be clarified. Firm time-lines need to be put in place for the Mineral Claim to be registered and granted.
   Better still, eliminate the Mineral Claim and just have the Lease application.

9. **Part 10A PEPR's**

   70B (2) (e) and (d) set out such other information as may be add the word "reasonable"

Some Councils are now required to pay the 55 cents per tonne royalty. If the Mining Act is to replace the Mines and Works Inspection Act (M&WIA) then it requires measures to control mining and rehabilitation of the land to ensure constant rehabilitation standards as is the case for the Extractive Mining industry. The M&WIA is the only tool to regulate and ensure rehabilitation of borrow pits is completed to an industry standard for Local Government, DPTI and SA Water. (The 'borrow pit' terminology needs to be changed because you can't 'borrow' the minerals for use and return them!).

10. The Mining Lease Application should be separated from the Mining Lease Proposal (MLP). This would ensure the rights to the land aren't lost whilst the lease applicant prepares an MLP. In some cases, MLP's may take some time to be developed.

Page 14;
Exempt Land

More work needs to be done to assess the long term productive value of the land and Whether there are areas which should be exempt from exploration.
For example, Hillside on Yorke Peninsula, if the land can't be returned to its pre-mining land use and the mine life is say 15 years, then food production should prevail as it is likely to be required for a long time.

Page 48;
Discussion
Agree with the first 3 dot points, the 4th dot point is more red tape and should only be used if the land is returned to community use. However, it requires safe guards to ensure a balanced outcome.

Page 49;
Discussion
If the first dot point is to be implemented then protection against Government abuse must be included. There is no history of this being a problem in the past. Discussions with lease holders/ operators have generally always achieved compliance.
This is an area where caution is required to ensure over-regulation does not get out of hand

Page 52;
2.3 Enforcement Leading Practice Mine closure planning.
Mine closure requirements in this State are so inconsistent that medium sized operators will not return as they cannot make a profit.
Small operators (Extractives must return land back to pre-mining land use).
Approved mine plans require multi-bench hard rock quarries to return the land to Grazing! (i.e. PM 11 and 12). Absolutely absurd and can't be achieved.

Page 55; For Extractive minerals operations only

(a.) The Extractives Rehabilitation Fund (EARF) commenced in 1972, and the biggest miss-management has been the millions of dollars in the fund that has not earned one cent in interest. Balance currently stand at $21.5 million (lot of rehab. money lost). For years the extractive industry has been asking why the fund can't earn interest?
(b.) Royalty component paid to the fund should have kept pace with CPI, industry would have supported this.
(c.) The EARF was the envy of the other states, with WA recently implementing a version to reduce bonds and make capital available to improve rehabilitation and mining practices with the interest earned used to rehabilitate old sites.
EARF Review 2002-2004.
(d.) Prior to the EARF review in 2002 to 2004 some of the bureaucrats decided without understanding what the fund did and its outstanding role in rehabilitation (and keeping costs down to the community) that it should be made redundant as no other state had anything like it. South Australia has lead the other states in many fields why not this?
(e.) The view was that the fund did not have sufficient funds to cover the whole state's total outstanding rehabilitation liability of $80M. However, they did not take into account the $80M was only a risk if the whole industry closed up at the same time without undertaking final rehabilitation (which wouldn't happen)!
(f.) The evolution of the approved ADP/MARP/MOP and PEPR reduced the liability on the EARF by the simple clause *"the final land form will be formed as part of mining"* (imposed lease condition for many) Where 'core' rehabilitation must be done by the miner. The implementation of this reduction depending on operation could have been 90% or more.
(g.) There was a lot of miss-information at the time of the 2002-2004 EARF Review. At the time industry would have supported a $1 per tonne increase to the EARF (imagine how much more money would be in the fund today if this level included interest?).

(h.) The bureaucrats at the time made their decision based on what they 'thought should be done' rather than what industry wanted (and were paying for) or what was in the best interest of the state.
(i.) When the new version of the EARF commenced in 2004 extractives were eligible for funding from the EARF for past rehabilitation liabilities if there were insufficient resources left to cover the outstanding rehabilitation cost. It was suggested at this time that an audit of all extractive operations be undertaken to determine which operation fitted this category (this was ignored).
(j.) It is imperative that any alterations to the fund based on the above comments do not put operations at financial risk. I personally know of major operations which should have outstanding rehabilitation funded by the EARF because in 2004 there were insufficient resources remaining at their sites to cover rehabilitation costs.
(k.) The department should be looking at what can be done to make the EARF a national leader in supporting the industry while covering rehabilitation liabilities.

Page 56;
Last paragraph of first column;
It is a complete fabrication to imply that the minerals on a Private Mine will only be mined when the economy can support its development.

Page 57;
Private Mines

1st Dot point;
The draft and approved MOP document should be available to stake holders to ensure transparency.

Dot point 2;
Most of the extractive minerals leases within Private Mines are road reserves, others that are an expansion to the resource have not compromised the ability to regulate. There many Private Mines where the approved operational plans are Mine Operation Plans (MOP's) and Programs for Environmental Protection and Rehabilitation (PEPR's) have been successfully regulated for many years. However, one document would be better for all stakeholders.

Dot point 3;
Clear provisions need to be included to prevent operations implementing changes which may impact the community.

Dot point 4;
Transparent compliance reporting needs to be included for all PM holders/operators.

Dot point 5;
While the aspects of the environment are narrower than under the Mining Act they have proven adequate and maybe the Mining Act has gone too far.

Dot point 6;
To my knowledge there have been no issues restricting enforcement on Private Mines. Need to be careful to not over-regulate as this has been identified as an issue which will increase costs to industry.
The increased cost of regulation has been highlighted as a problem over most industry sectors Australia wide. It was also an issue in the recent WA state election.

Dot point 7;
The administration of Private Mines needs to be rectified to cover land sales and the transfer of owners.
Legal advice should be sought to determine if a Private Mine is attached to the land and cannot be sold separately.

Dot point 8;
Implement a process to revoke unused Private Mines that is fair, open, transparent and ensures future resources are protected.

Dot point 9;
Bonds should apply to Private Mines as is with other mining tenure.

Page;59
Discussion

First dot point.
Don't destroy the fund, let it grow to become an industry leader, expand its use including research into developing information to assist community understanding of operational and environmental targets and the benefits for improved environmental outcomes.

EARF - a new term – a fund of "last resort" !
The EARF has been on a down-hill slide since 2004 with the department taking funds for the assessment of Extractive Mineral Lease applications.
A small Mineral Lease applicant has one fee. Extractive Mineral Lease applicants have the same fee but must also fund the salaries of departmental assessment staff (double dipping!).
In 2004 the extractive industry agreed to fund more departmental compliance staff on the understanding that they would have more on-site assistance (industry was told there would be 4 positions, 3 in the field and one as a technical support person in the office). This was never implemented in the way it was proposed and has had a seriously negative affect on the credibility of the department in the eyes of the extractive industry.