

Subject: FW: Mining Acts Review - Submission Relating to Discussion Paper 2 - Mining Act 1971

From: Andrew Minns [redacted]
Sent: Sunday, 2 April 2017 11:14 PM
To: Woodyatt, Daniel (DPC) [redacted]
Cc: Muller, Melissa (DPC) [redacted]
Subject: RE: Mining Acts Review - Submission Relating to Discussion Paper 2 - Mining Act 1971

Dear Dan

Thank you for the opportunity to provide a submission on the review of the Mining Act.

I have spent most of my career working in the mining industry in a wide variety of roles and have spent the last 20 years working in environmental, safety, community relations, stakeholder management, planning, engineering and project management related roles at mine operations, in project teams and in corporate roles. Within those roles, I have gained experience across 15 different jurisdictions within Australia and internationally. I have experience working within the South Australian regulatory system over the past 10 years. The views expressed in this submission draw on this experience.

The South Australian mine approval processes are quite different to other jurisdictions I have worked in. A key difference is that mine developments are approved entirely under the Mining Act (except for certain situations where mine related infrastructure requires Development Act approval as well). Another key difference is that the Environmental and Social Impact Assessment (ESIA) process is spread over 2 major approval processes – the Mineral Lease Proposal (MLP) and the Program for Environment Protection and Rehabilitation (PEPR). The environmental & social assessment component of the ESIA is predominantly contained within the MLP stage, and the PEPR provides more detail on any part of the MLP that needs to be updated, based on regulator assessment and the lease conditions. And the PEPR includes management strategies, controls, measurement criteria and monitoring. There is quite a bit of duplication between MLP and PEPR processes.

Some issues with mine approval processes that have emerged are:

- Approval processes are not well defined for situations where the project scope changes or modifications are proposed.
- The approval process is not designed well for project staging.
- The ESIA and the granting of an ML are tied as part of the same process.
- There is not a defined process for initiation of the MLP and framing the terms of reference.
- There is a lack of understanding of how the mine approval process links with the stages of project development.
- The MLP and PEPR have developed into large complex technical documents that can be difficult to read and understand.
- Duplication mentioned above.

Some suggested improvements are:

Terms of Reference (ToR)

- Introduce ToR process similar to what is done in other jurisdictions.
- It would be appropriate for ToR process to commence following a scoping study completed by the proponent and submission and/or presentation of the project description and preliminary social/environmental assessment to relevant Government agencies.

- The ToR would provide the framework, relevant legislation and standards for the proponent to prepare an environmental & social impact assessment (ESIA) for the whole project.
- This way, the project can be designed to known standards from the outset.

Mining Lease Proposal

- The MLP be upgraded to meet the required standard of an ESIA document that is consistent with the scale, sensitivity and complexity of the project.
- The proponent would not complete and submit the MLP until there is full project definition, following the completion of prefeasibility studies (PFS). This would be at the discretion of the proponent, however if PFS is not complete or well advanced, there is a high risk of project changes during the MLP assessment or worse, following granting of the ML.
- Lease conditions attached to the granting of the ML will require the preparation and approval of management plans prior to commencement of site activities (construction, commissioning, operations).

Management Plans

- The proponent will be required to prepare certain management plans and submit to relevant agencies for approval.
- For example: air quality & noise MP's would be submitted to the EPA for approval, groundwater, surface water and biodiversity MP's would be submitted to DEWNR for approval, traffic MP's would be submitted to DPTI and / or local Council for approval, mine site rehabilitation, care and maintenance and closure plans would be submitted to DSD for approval, etc.
- This type of management plan preparation and approval process is typical in many other jurisdictions, and draws on the expertise of the relevant agencies to approve. This process should be coordinated by the lead agency – DSD.
- These documents must align with the lease conditions and include outcomes (defining acceptable level of impact), mitigation and management measures, measurement criteria, the monitoring system and stakeholder communications and reporting processes.

So in summary:

- ToR provides the upfront planning, legislative framework and standards the project must be designed to.
- The MLP becomes a robust ESIA process expected for a mining project.
- The PEPR is completely removed.
- The management plans detail how the operation will be developed, operated and closed in environmentally responsible and socially acceptable ways, along with appropriately designed monitoring programs to ensure compliance is met. This would bring the SA mine approval process in line with good practice elsewhere, DSD being the lead agency, and enables referral agencies to approve management plans in their areas of expertise.
- A robust process for project modification for significant change is required. Change processes need to be designed for (1) significant change to project scope prior to submission of MLP (i.e. do ToR need to be amended?), (2) significant change following grant of ML (i.e. further assessment and modification to lease conditions?), (3) change during operations requiring updating of management plan/s, or if a significant scope change, further ESIA and modification to lease conditions.

A final comment on outcomes based approval processes. All approval processes that I have seen are a combination of outcomes, performance, prescriptive and management based. The SA system is no exception. And this should be recognised. I suspect that it would assist proponents greatly if clear policy and guidelines were developed for each impact area and these were referenced as part of the ToR, where relevant, at the commencement of the approval process. That way the project can be designed from the outset, with acceptable impact levels defined (based on types of receptors) and the measurement criteria required to meet acceptable levels of impact specified at the beginning, rather than finding out much later in the process in the form of ML conditions.

Thank you for the opportunity to comment.

Best Regards
Andrew Minns

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