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Dear Sir/Madam,

Please find my submission into the Leading Practice Mining Acts Review of the Mining Act 1971 and Regulations.

## Section 1 Exploration, Mining, Quarrying, Community and Land Access

What terms in the ***Mining Act*** and ***Regulations*** need clarifying?

- Tenements need to be clearly defined as Exploration (exploration activities) or Mining (production of minerals) in the Act;
- Exploration activities (for the purpose of finding minerals) and Mining activities (for the purpose of extracting minerals) needs to be better defined in the Act;

- The use of the word "mining operators" for Notice of Entry for exploration activities should be changed to "Mineral Explorers" if it is for that purpose.

What are appropriate 'personal uses' for extractive minerals?

- Appropriate personal use of extractive minerals
- minerals to construct place of residence;
- minerals to construct road to place of residence;
- minerals to construct dam for agriculture on the property not exceeding a surface areas of 25,000$m^2$

There should be, at a minimum, open, free, and online access to the documents listed above, at appropriate times such as:

- applications (at appropriate times given commercial sensitivities);
- public submissions (and/or summaries of those submissions);
- The terms and conditions of grant of a licence or lease;
- approved programs for environment protection and rehabilitation (PEPRs);
- compliance and incident reports submitted to the Regulator by explorers and operators.

Operators should be required to disclose geological information for the benefit of the public at appropriate times (if that information is no longer deemed commercially sensitive).

What opportunities are there to improve the entry to land processes?

- There should be a standard waiver template in plain English on the Department of State Development that both Landowners and Explorers can refer to and use as a waiver for the Notice of Entry;
- During the discussions between the landowner and the explorer if a waiver cannot be negotiated within 30 days the landowner must be informed that the explorer may serve Notice of Entry.

What terms need to be better defined to better clarify what is 'exempt land'?

- Exempt Land should be changed to Restricted Land because exploration and mining activities can occur but may require certain conditions;
- The use of the word cultivated land should be better clarified to exclude broad acre cropping. This means intensive cultivated land such as market gardens are exempt but broad acre farming is not which unlikely to be substantially affected by exploration activities.

What opportunities are there to clarify or amend the exempt land provisions in the Mining Act?

The following should be removed:

- Land that is situated— a. within 400 metres of a building or structure used as a place of residence (except a building or structure of a class excluded by regulation from the ambit of this paragraph); *or* b. within 150 metres of a building or structure, with a value of $200 or more, used for an industrial or commercial purpose;
- The word spring should be removed from the exempt land provision.

Exploration and mining does occur in other parts of Western Australia and Victoria and procedures put in place to minimize the impact on the receptors.

Any compensation for any exploration or mining activities such as loss of productive land, residence or commercial business which requires compulsory acquisition must be capped at 2 times the going rate for an equivalent business in the area close to where the activities will occur. Otherwise the explorer or miner should compensate the owner capped at 1.5 times the loss of productive area for the duration of the exploration or mining activities.

Landowners should have equivalent rights to commence negotiations with an operator in relation to 'exempt land' by issuing a notice under section 9AA of the Mining Act and should do so as soon as practicable.

I agree that it seems reasonable that a landowner's right to commence negotiations should arise at the time the operator has enough information about the scope, location and likely impacts of mining operations. Also to streamline the Notice of Entry with Notice of Declared Equipment the following should occur.

- The Notice of Entry should contain the scope of operations to be conducted including maps showing the location of activities, list of declared equipment and number of personnel;
- The Notice of Declared Equipment should be removed as a requirement and incorporated into the Notice of Entry;
- Landowners need to be informed about the scope of works prior to entry and if there is a proposed substantial change of the scope of work outlined in the Notice of Entry then the landowner must be informed before the work is commenced;
- I agree that access to the Warden's Court process to object to a Notice of Entry should be retained, so that landowners have a right to object to operations that will have substantial impacts;
- I agree that an appropriate time for a landowner to issue proceedings is at a time when the operator has enough information on the proposed operations which logically is after the Notice of Entry is served;

- The landowners, business and explorers should have fast access to the Warden's Court for the determination of exempt land matters with an attempt to resolve the matter within 7 days.

The following proposed changes to approved mining operations should give rise to a statutory right for a landowner to be consulted on the proposed change when:

- The proposed life of operation changes more than or less than 50% of the original life of operations described in the PEPR;
- There is a proposed substantial change in the mining method compared with those described in the PEPR. Ie open pit to underground mining;
- There is a proposed substantial change in the processing method compared with those described in the PEPR. Ie concentrating to heap leaching.

The changes to approved mining operations should give rise to a statutory right for a landowner to be notified when:

- There is a substantial change in the mining method compared with those described in the PEPR. Ie. open pit to underground mining;
- There is a substantial change in the processing method compared with those described in the PEPR. Ie. concentrating to heap leaching;
- Landowners and the community must receive information about the proposed change of operation process via "Description of Proposed Change in Operations".
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## 2. Sustainable Futures

The concept of PEPR includes there will be no permanent loss of native flora/fauna abundance or diversity with the licence areas and adjacent areas caused by mining operations. However, if the land has already been cleared for broadacre cropping this creates confusion about what the post mining land use should be. I propose that other alternative uses of the land could include areas for tourism, recreation etc. which does not necessarily require more or less native flora or fauna.

If PEPR fulfills the requirements of the mining lease with regards to noise, dust and rehabilitation then it should not necessarily be modified if the mining plan changes from the issuing of the mineral lease to the delivery of the PEPR (ie a substantially smaller footprint).

I do not think that the Minister should be able to place conditions on PEPRs so that explorers or miners cannot commence activities until after a particular point in time. I propose that the miner commences mining activities and that within the first year of production that miner is able to pay a bond for rehabilitation in a progressive amount according to the surface disturbance. This is

especially relevant as the concept is for progressive rehabilitation and places unnecessary extra initial debt on a mining company.

I think the Department should be able to prohibit or delay the expiry of a tenement until an explorer or operator has complied with all outstanding obligations.

I believe the Department adopt a more streamlined surrender and/ or expiry process whereby the Department and the community can be assured that all outstanding liabilities are complied with prior to surrender or expiry.

I do not believe the process should be open for public comment prior to acceptance of the surrender or expiry date to ensure all outstanding liabilities are brought to the attention of the Department and the community. The government has highly qualified staff to complete this work, it should not be left to unqualified, unexperienced public to determine the liabilities of a mining company's operation.

There may be some benefits in enhancing the Departments compulsive tools by:

- Increasing penalties;
- Preventing renewals, transfers, cancellations surrenders and transfers until environmental obligations have been complied with;
- Imposing personal liability for directors for company non-compliance.

I believe there is some benefit in publishing relevant government, explorer and operator documents (where appropriate) online to increase government and industry transparency and accountability.

I agree that the Department can increase the accountability of explorer and operators by:

- Ensuring the timely payment of rents;
- Prohibiting tenement renewals, cancellations, surrenders or transfers until all outstanding obligations are performed.

I think the current tools and the proposed changes to regulatory tools will be sufficient to ensure leading practice mine closure and progressive rehabilitation (including the progressive rehabilitation of exploration operations.

I think private mines should be regulated in a similar way to other mining activities under the Mining Act. This would include:

- PEPR requirements;
- Rehabilitation bonds;
- Inspections by mines inspectors for compliance with the Act and Regulations;

- Annual records of extractive mineral production, royalties, surface disturbance and rehabilitation.

I agree that there should be an efficient and cost-effective process for revoking inactive private mines. I propose if the mine has been inactive for 10 years, then the owner must show in the PEPR when they intend to restart operations or rehabilitate the site within the next 5 years. If they cannot do that then the mine should be revoked. This stops land banking of private mines and can open the area up to Explorers or urban development.

What opportunities are there to maximize the benefit of permanent infrastructure at the end of mining activities?

- The mining act should allow the mining operator to retain, or transfer those infrastructure assets by the seen by the community as seen to be providing value for long term economic activity. The Mining Act should allow the transfer of the conditions imposed on the operating and maintenance of the infrastructure to the Development Act.

## 3. The Benefits of a Streamlined, Rigorous and Competitive Regulatory Environment

South Australia must move to a graticular block system to simplify the system.

The Act must allow the following categories of registerable instruments to be registered with the Registrar and available for public:

- Mineral claims;
- Leases and licences;
- Transfers of proprietary interests in a mining tenement;
- Mortgages;
- Caveats;
- Dealings/instruments required to be registered under the Mining Act;
- dealings/instruments not required to be registered under the Mining Act, but which the tenement holder may choose to register;
- Instruments issued under the Mining Act (compliance and rehabilitation directions, bonds, penalties).

The Department should not determine caveatable interests (either at registration or dispute) and this should be determined by a competent court such as the Warden's Court.

Exploration and mining is not prohibited within specially protected areas but, if a tenement application relates to an area within or adjacent to a specially protected area, the Minister for Mineral Resources and Energy must refer the application to the Minister for Sustainability,

Environment and Conservation and consult with them before making any decision. However a comparative activity test should apply. Ie. If non land disturbing exploration work is performed and recreational activities occur on the adjacent titles then this meets the comparative activity test. Once the initial grant of exploration licence is granted then the it should be the responsibility of the MRE for the PEPR without requiring further input from the SEC.

If the EL terms and regulatory mechanisms are limited to 5 years, with a possibility to renew another 5 years it should be adequate time to explore and identify mineral deposits in South Australia, without leading to 'land banking'.

The forfeiture provisions relating to mining leases, retention leases and mineral claims should include exploration licences.

Mineral claims should not be retained. They should be replaced with a mineral lease to reduce the amount of regulatory red tape.

The mineral lease and the extractive mineral lease should be combined into a single generic mining lease which covered both minerals and extractive minerals (with flexibility for change) benefit operators. This would allow operators to extract minerals in synergistic operations ie. dolomite overlaying a copper ore in a single operation leading to lower capital, operating, administration costs and rehabilitation for both commodities.

The maximum term for which a minerals lease could be granted should be 30 years with 30 years extension. Most mines are not well planned after 20 years, most are planned in detail only to 10 years. Therefore 30 years represents a reasonable maximum for a mine taking into account changes in technology as well as brownfields exploration potential.

The granting mining leases for a term that reflects the predicted mine life does not allow for changes in technology such as reclaiming of existing tailings. Eg Kaltails operated for several years, long after the mine finished.

Miscellaneous purposes licences should remain so that if the infrastructure assets are transferred under the Development Act they are much easier excised from the Mineral Lease.

South Australia should remove Retention Lease and adopt retention status of exploration leases subject to approval by the Department of State Development. They should be for 5 years with a renewal up to another 5 years. When the renewal is due, companies must submit a report to DSD explaining what barriers remain that prevents development and the DSD can decide if they are legitimate to prevent land banking.

Yours sincerely

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Date: 24/02/2017

Ref: 170224_SA_Mines_and_Inspection_Act_Review

Dear Sir/Madam,

Please find my submission into the Mines and Work Inspection Act 1920 and Regulations Review.

**1. Mine Worker Health and Safety**

In principle, I believe the following option of:

Repealing the Mines and Works Inspection Act and Regulations, and incorporating relevant provisions into other appropriate legislation as required (e.g. Mining Act and Work Health and Safety Act).

If the Act and Regulations are to be repealed, specific options for mine manager Competency include:

- Relying upon the safety requirements for mine managers to be covered in the Work Health and Safety Regulations;
- Amending the Work Health and Safety Regulations to include specific requirements for the competence of mine managers;
- Retaining an assessment process and issuing of certificates of Competency.

I believe the statutory certification as the best means of assuring the Competency of mine managers.

I believe the certification convention should be changed and redefined as follows:

- First class mine manager's Certificate of Competency;
- Quarry Managers Certificate of Competency;
- Underground Supervisor's Certificate of Competency.

I believe the total number of full time workers engaged at a mine is a relevant threshold.

- First class mine manager's Certificate of Competency (no limit);
- Quarry Managers Certificate of Competency (no limit for open pit only);
- Underground Supervisor's Certificate of Competency (25 full time equivalent employees underground only).

I believe a fit and proper test is a reasonable requirement for Certificates of Competency and this test should be set in law.

The requirement for experience for a mine manager should be included in law by way of requirements for issuing of Certificates of Competency described below:

- First class mine manager's Certificate of Competency
    - Practical experience in or about a mine for a period of not less than 5 years of which at least 3 has been general underground mining experience and which shall include:
        - Face experience in operating a rockdrill on development and stoping faces for a period of not less than 3 months;
        - Personal experience in using explosives for a period of not less than 3 months;
        - 6 months full time underground employment directly involved in ground support, haulage and transport and general mining.

- Quarry Managers Certificate of Competency

- Practical experience in or about a mine for a period of not less than 2 years of which has been general open pit mining experience and which shall include:
  - Experience in operating a rockdrill for a period of not less than 3 months;
  - Personal experience in using explosives for a period of not less than 3 months;
  - 6 months full time open pit employment directly involved in haulage and transport and general mining.

- Underground Supervisor's Certificate of Competency
  - Practical experience in or about a mine for a period of not less than 3 years of which has been general underground mining experience and which shall include:
    - Face experience in operating a rockdrill on development and stoping faces for a period of not less than 3 months;
    - Personal experience in using explosives for a period of not less than 3 months;
    - 6 months full time underground employment directly involved in ground support, haulage and transport and general mining.

I believe the age limit for be prescribed for a mine manager as follows:

- Underground (25 years);
- Open Pit (23 years).

I believe a degree or diploma is an appropriate qualification for a mine manager. Specifically, the minimum should be:

- First class mine manager's Certificate of Competency (Bachelor of Mining Engineering recognized by the Institute of Engineers Australia or equivalent);
- Quarry Managers Certificate of Competency (Diploma of Mining, Bachelor of Science in related geoscience/geotechnical discipline);
- Underground Supervisor's Certificate of Competency (Diploma of Mining).

I believe an examination on mining law, environment and safety in necessary as part of the issuing the Certificates of Competency.

It is the responsibility of the regulator to determine a person's understanding of the mining law and safety by way of an examination in partial fulfillment of the requirements for the issuing of a Certificate of Competency.

**2. Health and Safety of the General Public Affected by Mining**

I believe this should be incorporated into other legislation such as the Mining Act and the Environmental Protection Act which is administered by the Environmental Protection Agency.

**3. Environmental Matters**

I believe this should be incorporated into other legislation such as the Mining Act and the Environmental Protection Act which is administered by the Environmental Protection Agency.

**4. Administration Issues**

I believe this should be incorporated into other legislation such as the Mining Act, Work Health and Safety Act and the Environmental Protection Act which is administered by the Environmental Protection Agency.

Yours sincerely

Charles McHugh