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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?

Exempt Land

Term 'building or structure with a value of $200 of more'

Recommendation: The categories of exempt land need to be reviewed as does the value of a building or structure used for an industrial or commercial purpose (currently set at $200) – this value should be at least $20,000.

Part 9 - Entry upon land, compensation and restoration

A mining operator may enter land to carry out mining operations on the land by a number of different means according to the Act including:

- if the mining operator has an agreement with the owner of the land....

- if the mining operator has given the prescribed notice of entry

It has been the experience of some exploration companies that a number of people can be in care, control or management of the land in question, or there are people who are in lawful occupation of the land where they wish to explore. This makes it extremely difficult in some cases to ensure that notices of entry and/or agreements are in place with the rightful 'owners' as defined under the Act.

Recommendation: The mining operator should only need to serve notice of entry on the registered owner of the land and it should be the responsibility of the registered owner to notify any other parties that have legal rights as an 'owner of land' under the Act.

The mining operator may proceed once the registered holder has been served notices as required.

ERD v Warden's Court

The Warden's Court is seen to be more approachable to all parties, less costly for all parties, and has a long history of dealing with mining related matters and establishing legal precedents. Prior to the 2011 amendments of the Act, all matters under the Act were referred to the Warden's Court.

Recommendation: The ERD Court should be replaced with 'Warden's Court' in the Act.

Program for Environmental Protection & Rehabilitation (PEPR)

Recommendation: The PEPR needs to be clearly defined as a set of management plans that can be amended or changed without having to reassess the guidelines set out by the Department at the ML stage. Furthermore, the PEPR will need to focus on outcomes rather than processes and Schedule 6 conditions should be removed from licenses, as it is not the role of DSD to determine/prescribe how a mine operator should manage the operation to ensure compliance with Schedule 2 conditions.

Mining Lease rental fees should only be triggered after a PEPR is approved.

Mines and Works Inspection Regulations 2013

Part 3—Amenity of mine area and of the surrounding environment

12—General duties

(3) A person who carries out a mining operation or an associated, incidental or ancillary activity must not create a nuisance through the production of undue or excessive noise or dust.

And,

14—Protection from damage

2) A person who carries out a mining operation must not permit the release of material so as to cause the pollution of air at the site.

Recommendation: These clauses should specifically reference in accordance with the EPA Act and ensure compliance with the relevant EPP noise or air quality policy. This would ensure that the public is continually protected over the life of a mine as the EPA policy changes with respect to community expectations. This also would preclude DSD from instituting ad hoc and sometimes cherry picked mining Lease conditions pertaining to air quality and noise conditions, rather the Schedule 2 conditions will specifically reference compliance to both the EPP noise and air quality policy for the life of the mine.

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 Minister - MRE for the PEPR without requiring further input from the Minister - 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.

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).

I believe that SA should adopt the Tasmanian Regulatory approval process whereby the Regulations specify that the person (site senior officer) must have appropriate background, experience and competence commensurate with the risks and activity of the mine. These attributes must be assessed by the mine operator who is responsible for the operations of the mine. One of the issues that has not been raised is that it is quite likely that in the current situation in SA that the Registered Manager (as per the mining Act) would not control the finances of a site (thereby complete authorization to finance all safety aspects), whereas under the Tasmanian approach the Site senior officer would have accountability and control from a Requsite Organisation approach.

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

John Burgess