



The Executive Director

Mineral Resources Division

Department of State Development

Submission to the Mining Act Review

Introduction

I thank you for the opportunity to have a say in the review of the Mining Act. As a retired teacher, my interest is in the effect of mining on people and the environment. I also realise the importance of mining to Australia and that regulations should not be so excessive as to put companies off investing here. There must be a balance practised where all affected people have their rights recognised and protected.

What landowners perceive is that mining companies, because of their wealth, power and possibly power over the government decision makers have the upper hand in all disputes and that the landowner is powerless to object. This is not just. Nor is it good for the country to have one form of land use dominating to the detriment of other equally necessary uses. I think most landowners feel that they will have to battle for their rights.

If the landowners object to mining on their land they can take the matter to the Warden's Court at their own expense. If the Warden's Court rules that compensation was available and reasonable, then the land owners have to accept the ruling. I wonder how many landowners have won in the Wardens Court and what is considered reasonable for landowners and their neighbours to have to put up with. A person's home, peace of mind and well-being cannot be measured by money alone.

All over Australia miners of the past have left a shocking legacy of pollution in their wake, pollution that seems to be impossible to remedy, with the cost running into millions, if not billions, of dollars. A review of the Mining Act must take these disasters into account and do everything possible to prevent this happening again. About 60 years ago the Bremer River became toxic due to operations at the Brukunga pyrites mine. It is still polluted and unusable today.

The frightening aspect of modern mining is the enormous size of mines, the vast areas of land used up by mining, land that would otherwise have been used for farming and pastoral pursuits to produce our food. Mining now affects larger numbers of people over a much larger area than in the past, therefore it is vital that old regulations be reviewed, and I commend you for doing so. We have to think much bigger than we have historically. Most people don't want Australia to be one big quarry.

Comments on some of the discussion questions.

1 Exploration, Mining, Quarrying, Community and Land Access

1.1 The Mining Act is not easy to read. The term "mining officer" needs clarification.

1.2 I totally agree that community members should have "access to relevant and detailed information at appropriate times during the assessment process." My experience of community consultation meetings is that the public is told what will happen minus the negatives. Nothing should be restricted unless commercially sensitive. Companies should not have facts that landowners and the neighbourhood do not know especially if they concern

possible hazards and negative health effects. The Minister should have the power, and the obligation, to disclose all relevant information to the public. Having facts that the Minister and the mining company know but the concerned public does not look like conspiracy and destroys trust. Neighbours should also be informed of proposed mining in their region.

1.3.1 Notice of entry served 21 days before entering is too short a time for landowners to inform themselves about the future consequences of allowing entry, and to consult a lawyer. Notice should be presented by hand to the landowners themselves and should not be valid unless done so.

1.3.2 Description of what constitutes exempt land is not clear. Distances are too close considering the type of massive, invasive mining done these days. The cost of a building should not come into it. Who decides what is "sensible, sustainable development"? Using food growing land for mining, to my mind, cannot be classed as "sensible, sustainable development for the benefit on the State." All land used for food production should be exempt from mining.

1.3.3 There should be no waivers of exemption over exempt land. A right that has been given should not be withdrawn. Maybe no one knew they could object to the use of declared equipment.

1.3.4 A court may uphold a landowner's objection to entry if the court is satisfied that the conduct of the operations on land would result in "substantial hardship" or "substantial damage". This is problematical because, for example where the water table or an aquifer is concerned, who can say with certainty, whether or not substantial hardship or substantial damage will occur before the operation has commenced? The landowners may well feel they don't want to risk it I doubt they would win under those circumstances. Nevertheless this right should be retained.

It is interesting in 2.4 that you mention "potential liabilities that are difficult to estimate, such as the risk of rehabilitation failure subsequent to the surrender of the tenement." I think most landowners, knowing this, would not want to allow mining on their land but whether this would be seen by a court as an adequate objection I don't know. The landowner would be liable for huge costs which he or she may not be able to pay and also to be unable to sell the property to anyone. Who would want to take that on, knowing the facts.

1.3.5 Unless Aboriginal people themselves are in agreement and want mining on Aboriginal land it should be forever exempt.

1.4 Ensuring that payment and fees are recovered is very important. This money belongs to the people of South Australia. How can mining companies expect to gain trust if they cheat us out of our dues? Companies that have not paid their debts should be prevented from mining till they do so and their noncompliance should be recorded and made known publically.

1.5 Landowners and the community should be thoroughly informed of any proposed changes, for instance if mining were to temporarily cease, if mining were to resume after ceasing for some time, if new access roads were needed, if they wished to extend the mine, if more water were needed and so on. Especially if a large change were needed all information should be publically available and open for comment or objection with landowners able to object as when they were first served notice of entry.

2 Sustainable futures

I think with any extractive industries, and indeed agriculture in the past, too little account has been given to the natural environment just being there. It's commonly seen as useless land, just sitting there doing nothing and ripe for the taking. This has been our attitude since first settlement, 'If it runs shoot it. If it

grows, knock it down.” People now are beginning to see bushland and open space as valuable in their own right . It is now well known that natural spaces are important for our mental health and sense of well-being. With mines becoming ever bigger and more invasive I wonder how much importance will be attached to the above or whether environmental regulations will be reduced to the bare necessity.

“There will be no permanent loss of native flora/fauna abundance or diversity within the licence areas and adjacent areas caused by mining operations and vegetation clearing.” Surely this is a dishonest statement as, with large open cut mines, that is precisely what will happen. It should read, “There will be unavoidable permanent loss”

“Any extraction or use of groundwater...must not adversely affect third party users or dependent ecosystems.” I wonder how it will be possible to uphold this. Landowners presumably will be faced with the impossible task of actually proving that their bores now run dry due to water being used for mining.

“There will be no disturbance to Aboriginal artefacts or sites of significance, unless prior approval under relevant legislation is obtained. There should be no disturbance at all.”

“There are no public health and/or public nuisance impacts from air emissions and/or dust from mining operations.” Laudable but is it obtainable where mining operations are near farms and towns? There are many, many examples of the health of people all over the world being affected by mining. For this reason before a licence to operate is granted, along with an environmental impact study, a health and well- being study should be conducted by independent health and social experts with as much weight as the findings of other experts in their fields.

2.1 “The Regulator also has to consider whether the operator has the ability to achieve those environmental outcomes and meet those criteria.” How is this determined? Is there regular assessment carried out throughout the mining operation? What is done if the operator appears to be failing in his obligations? Is a fine imposed? I have read that in some cases miners prefer to pay the fine than repair the damage. It is cheaper. What are the criteria that performance is measured against?

2.1.1 I agree with everything in this section.

2.1.2 I agree with this section. I think records of past and present non-compliances should be available to the public and advertised in the media. I believe in enhancing these measures as stated.

2.2 I agree with the need to increase government accountability. Big mining companies with lots of money can be very persuasive. I agree with the proposal to expand the use of the Mining Register to include the listed items. This should be readily available to the public and should include past misdemeanours of a company and what the government did about them. A landowner should be able to access this information before agreeing to mining on his or her land. I would also like to know how the government chose between competing companies. These proposals police the mining companies but who polices the government? Fines for non-compliance should amount to more than a slap on the wrist.

2.3 “Appropriate rehabilitation of all mining operations should be non-negotiable” I agree.

2.4 “the Departmentneeds adequate powers and funds to manage and rehabilitate existing legacy mine sites.” Increase our ridiculously low royalties, fees and taxes to pay for this. New mines should have

to pay a realistic amount up front to cover rehabilitation. Money for rehabilitation should not come out of the public purse. Liability should be regularly assessed during the life of the mine and not just at the beginning and end and adjusted according to what is found. Mining should cease until the problem has been fixed. Rehabilitation costs should never fall to the government or the community. Mining companies have extracted enormous wealth from our land at little cost to themselves. This is ridiculous and makes the ordinary citizen question why this is so. Other countries make much more from their resources than we do. Is this why SA is in such a poor financial state?

I commend your search for a financial assurance model for SA to fund the rehabilitation of former mine sites. Unfortunately I'm not an economist so can't tell you how best to do this. I hope you come up with a good solution. It would be wonderful to see places like the Bremer River and surrounds no longer toxic.

The government should not have to "incentivise progressive compliance". Compliance should be law with appropriate action taken for non-compliance. Having to cease mining would be a greater penalty than paying a fine which is tiny considering the monetary worth of big companies.

2.5 I agree with both of the discussion points regarding private mines.

2.6 If income for the EARF is derived from royalties then royalty amounts should be increased so the government is not losing. Royalty rates may be comparable to those paid in other states but are way behind those of other countries. Our money should not have to go to cleaning up the messes left by the mining companies or private people who have benefitted from the resources on their lands. The Federal government should set uniform royalty rates and safety, health and environment conditions in every state so states are not tempted to make things easier for mining companies by cutting corners. The states needing to compete with each other to gain business could have undesirable unintentional consequences with the environment being one of the losers.

3 The benefits of a streamlined, rigorous and competitive regulatory environment

I don't support weakening our regulations to attract business. I think we can make SA attractive with assets like our geological databases and SARIG.

3.2 I agree with the aim of the Mining Register to be an accessible record for the benefit of operators and the community. The community can get the feeling that things are going on behind closed doors and they will be the last to know. What is a tenement to the government may be a home and/or a farm to someone else.

3.3 I commend the government for being committed to open and early transparency. To be found to be deliberately concealing information from the community would have serious detrimental effects on the government. There is massive distrust in governments worldwide as it is. Everyone would like to be able to trust their leaders and have faith that they will do the right thing for the population in general. I think we can say this trust is dead or dying in Australia. More transparency from mining companies could lessen the feeling of ordinary Australians that we are at war with the government and the mining companies.

3.4 "The Regulator's role....is to ensure that mineral resources are developed in a way that delivers balanced environmental, economic and social outcomes." Who determines whether these outcomes have been adequately planned for? When the government employees have finished their plan I think it should then go to independent assessors for checking. I think the desire for minerals could override the desire for environmental, health and social wellbeing.

3.5.1 A flexible tenement structure allowing for overlapping mineral extraction could be an advantage to landowners as they would only have to face the problems of agreeing to mining on their land once rather than finishing with one lot then having to start negotiations with the next lot. They would have to know at the beginning what they were signing for. Mining for 2 or more minerals at once could shorten the time of disruption but not the extent of the damage. It's a tricky question. Subdivision of ELs means more landowners and more areas of the environment will be affected as more land is opened for mining.

3.5.2 I agree. This seems unnecessary.

3.5.3 " must ensure that the best explorers are given the best opportunities to explore" What are the criteria for judging what is a "best explorer"? It would be good to know how one company was chosen over others. "newly opened areas that were previously special declared areas". It would be important for the general public to know why individual special declared areas are no longer special declared areas.

3.5.5 Terms should not be extended. 20 years is a long time for debts to mount.

3.5.9 Good for the operator but not for the landowner who may want to sell his property in the future unless the mining company was prepared to buy it.

3.5.12 Operations carried out under an indenture should be subject to the Mining Act.

3.6 I agree with decreasing tenement assessment times only if it means increasing efficiency but not if it involves cutting corners.

3.7 Changes to an approved PEPR must be submitted to the Regulator but also to the landowner with all relevant information presented to him or her personally and without omissions. The landowners must be notified if the changes involve increased health, dust, nuisance hazards and environmental damage which, being unforeseen at the time, were not presented to the landowners at their first consultations. Landowners must be given the chance to object if the changes are great and far beyond what they originally agreed to.

3.9 A single consistent process for surrender and one for suspensions and cancellation sounds reasonable provided nothing is lost in rigor in the process.

3.10 For environmental reasons I am against the removal of moss rocks.

3.11 Environment matters should be decided by environment officers. This should be common practice and not require the Minister's consent.

3.12 Have a uniform federal fee structure.

3.13 The question of royalties needs urgent overhaul both for the government and the mining companies. A standard means of calculation of royalties for the operator seems essential. Why companies earning

billions from our land should be expected to pay so little for the privilege is beyond me. An estimated assessment filed for companies who fail to lodge a royalty return sounds like a good idea. Is there a back-up plan if that fails? Are companies that regularly fail to lodge a royalties return allowed to go on mining in SA? If not paid then the Board of Directors should be held personally responsible and made to pay back the fees without needing to be taken to court.

3.14.1 It seems the Geological Survey of South Australia does an enormous amount of work to assist mining companies through granting access to a vast supply of geological information they would otherwise have to collect themselves. This is designed "to reduce exploration risk and cost". Where did the money come from for this important work? Why, with this help provided to mining companies do they then pay little or no tax and meagre royalties?

This also benefits landowners by lessening the rates and time of disruption to them during the exploration stage.

Conclusion

I welcome your overhaul of the Mining Act and the opportunity to comment. My overall feeling though is that the benefits are weighted on the side of the mining companies rather than the landowners and communities and that landowners are basically commodities or obstructions to be overcome by the mining companies, preferably with the assistance of the government.

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