



ATTN: Executive Director, Mineral Resources Division

This submission opposes open cut and invasive mining/quarrying on all exempt land in South Australia, and any underground mining beneath that land. The submission advocates amendments to both the Mining Act and DSD's regulation, guidelines and implementation of the act.

Call for an independent review of the Mining Act

- A review of the mining act is required by either an independent panel or arbitrator. There is a distinct conflict of interest as DSD are the promotor, arbiter and regulator of the mining industry.
- The Discussion paper is heavily weighted to secure mining tenure and fast track processes in their favour.
- Discussion paper 2 on page 29 states 'The Department's view is that the 'exempt land' framework under the Mining Act has been working well at striking the right balance around land access for over a century, and that it is fairer than the frameworks used in other jurisdiction.' It is neither working well or balanced as court rulings in relation to exempt land go against the land holder.
- We need a commitment from DSD on further consultation on key issues raised by the review. Draft recommendations must also be made available to the public to comment before it reaches Parliament.
- What are the current 'net costs and benefits' of Royalties to the industry and the taxpayer?

No waivers for miners or explorers. Protecting landowner's rights on cultivated land.

- The greatest need is to provide absolute protection for South Australia's agricultural land from mining and exploration.
- This submission supports the original aim of 'exempt land' as defined in Section 9 of the Mining Act, 1971. Under that exemption, land that is cultivated as a yard, garden, cultivated field, plantation, orchard or vineyard is 'exempt land', as is land within 400m of a residence, land within 150m of a spring, well, reservoir or dam.
- Section 9AA of the Mining Act 1971 permits the waiving of this exemption. This section allows the mining company to apply to the Environment, Resources and Development (ERD) Court to override the right to an exemption and as such landowners have no real rights or protection. Section 9AA must be amended to remove the right to waive the exemption.
- The Mining Act 1971 must be amended so that all freehold landholders have the right to veto mining on their land if it is Exempt Land under Section 9. We urge DSD to follow the lead from the Western Australian Mining Act 1978, Section 29, part 22. W.A. protects its agricultural land with the right of the landowner to prohibit or grant entry or a mining tenement upon their land. This exemption must not be over-ruled by the State Government acquiring the land for mining purposes or allowing it to be acquired for mining purposes.
- Insert a Principle Statement declaring all agricultural land exempt from mining activities
 - Remove S9AA of the Mining Act
 - Redraft Section 9 (1), (2) and (3b) to remove any reference to waivers of exemption.
- Landholders are currently pressured to negotiate to avoid potential legal action and the prohibitive costs incurred. Landholders also must be eligible for independent advice and assistance from a Government funded Landowners Advisory and Support Committee without incurring high cost legal fees. They need access to an independent advocate on their rights.
- I support the view that the current use of applications to the ERD court to be maintained.

Environmental Management

- Responsibility for setting environmental standards and strong monitoring compliance with those standards should be transferred away from DSD to an independent environmental regulator.

Community Consultation recommendations.

- Commitment to full community consultation at each stage of the process
- Identification and engagement of all community stakeholders with supportive documentation of consultation with minutes of both 'one on one' meetings and group meetings signed off on by members of the community must be submitted with proposals as part of the approvals process.
- Appointment of independent respected representative who is without a vested interest (NOT on proponent's payroll) to oversee the consultation process and report to the Government on its veracity and fairness is required. The consultation process must have clearly defined terms of reference that are agreed upon by the broader community and adhered to by all parties.
- A social and community impact assessment must also be conducted as part of the approvals process, not on the anticipated jobs created or dollars generated, but the personal impacts and harm that individual landowners and businesses are faced with.
- Companies to provide current and past operational mining/quarry-; rehabilitation and compliance directions/reports, incident reports, infringements, Insurance compliance certificates, notices for failure to comply, site audits and ongoing capability assessments as part of the approvals process.
- Procedural fairness, a more equitable time frame for public submissions to be increased from 4 weeks to 5 months.

Government amendment requirements for Proposals

- The Act must formally acknowledge and endorse the concept of social licence – i.e. that to get approval for a project, the company must demonstrate it has broad community support. Absence of a social licence must constitute grounds for rejecting a proposal.
- As part of the assessment process, companies must be required to provide an accurate detailed cost/benefit analysis.
- A comprehensive detailed online MLP application form provided by DSD incorporating a checklist to verify supporting documentation. Implementation of a more detailed and comprehensive online checklist similar to that of '2016 Mining Proposal Checklist' of Western Australia.
- Proposals that are not adequate or incomplete, fail to supply required supportive tests or data, documented consultation minutes to be returned to the applicant for completion as per the guidelines.
- All correspondence by a company in regards to any tenement or mine proposal with DSD must also be freely available on DSD website.
- Commitment to fully costed and funded leading practice rehabilitation, including a requirement that post-mining, the site should be returned as closely as possible to pre-mining conditions and pursuits;
- Commitment to transparent and open decision-making and
- Independent agronomic impact statements must be contained in the proposal.

Amendments required for liability and compensation.

- Adequate liability insurance cover should be guaranteed by both the State Government and the mining company to compensate all farmers for any claim against their products with regard to contamination caused by mining operations. With all invasive mining land use, then compensation for any loss of reputation, production, or price must be borne by those that approve such mining operations. Producers/businesses impacted by mining exploration should

receive compensation immediately for the impact on their business, managing the exploration process.

- Compensation towards legal costs in the current Act are too low (\$500). If any litigation or defence of a farmers legal rights to exemption landowners must be able to claim all their legal and other out of pocket costs from the mining company.
- Adequate compensation for loss of any income, land, house value etc. should be addressed by an ombudsman and land holders should not have to face the duress of court and be out of pocket for prohibitive court costs.
- Government Real estate valuations must be provided to landholders within 10 km of the site prior to commencement of operations.
- Annual Government valuations of comparable market values to verify impact of quarry/mine property on real estate sale, rental, lease hold and share farming values.
- Adequate financial restitution for compensation and costs must be provided to those whose properties sale values reduce or fail to increase against Government comparable valuations due to impact of proximity to mine/quarry.
- Adequate financial redress for compensation and costs to those whose properties rental, leasehold or share farming price reduce/ or fail to increase against Government Comparable valuations due to impact of proximity to mine/quarry.
- Government and Council to provide notification to all prospective purchasers within 5km of an EML or Claim and transport route.
 - Such a body would provide a much needed advisory and support service at the local level and would therefore redress many of the disadvantages currently facing farmers and local residents. These include: lack of knowledge about rights and responsibilities; not knowing who to contact about their concerns; inexperience in seeking information from, or lodging complaints with government agencies and total lack of information about the court system.

Regulatory recommendations

- If the operator/explorer is non-compliant elsewhere in the state, interstate or overseas;
 - And has a mine proposal for assessment then the non-compliance information must be available to all stakeholders. Assessment of the proposal ceases until compliance requirements are fulfilled. Approvals of a PEPR or other approvals under the mining act are not granted until remedied.
 - And is currently operating then all operations must cease until the issue is remedied. If not the licence is suspended.
- There must be rigorous, on-site Govt monitoring of exploration/mining operations, specific penalties for breaches, and regular reporting by the regulators to the community on each exploration/mining project.
- Misleading and false reporting of the consultation process is a deliberate act and of sufficient gravity to incur a maximum higher penalty payment and or withdrawal of PEPR to mine/quarry.
- Definite time limits must be imposed on exploration/mining companies with penalties or mining/quarry licence cancellations imposed for failing to meet these limits
- Local communities must have the right to agree with or reject proposed changes to PEPR's for increased operational hours, noise, dust or traffic levels, or changes in utilization of heavier equipment or increased environmental impact on flora, fauna or water. The community are the ones who have to live with the subsequent impacts.
- Long term impacts on land values needs to be assessed and made available. Need for recognition of third party ie: lessee rights to compensation sharing.
- A Mining Ombudsman, answerable to Parliament, must be appointed to provide an independent umpire to whom residents can refer unresolved complaints against a company.

- Online access to the following government and operator documents on DSD website for greater transparency and improved accountability.
 - Environmental and operational compliance audits/reports,
 - rehabilitation and compliance directions/reports,
 - incident reports,
 - infringements,
 - Insurance compliance certificates
 - notices for failure to comply,
 - site audits and ongoing capability assessments.
 - Bond amounts
 - Expected rehabilitation costs
 - Insurance certificates
 - Public liability insurance
 - Expenditure reports containing actual exploration expenditure
 - Statutory closure insurance
 - Core sample information
 - All correspondence, data, meetings, etc. relating to DSD, tenement and the company must be freely available with no need to request it from FOI.
- If the mine or quarry has a water catchment on or within 500 m proximity to the site then the proposal must contain baseline data tests for turbidity, mineral content, pH levels, salinity and toxicity both upstream and downstream. Further quarterly tests must be conducted both upstream and downstream for these elements once operational.
- Proposals must include baseline data on soils and soil profiles. Identification of possible adverse parameters such as low or high pH, high salinity, nutrient/ trace element deficiencies, poorly structured soils, dispersive or sodic soils and any potentially hazardous compounds.

Mine Rehabilitation

- Responsibility for managing mine rehabilitation should be transferred to an independent environmental regulator. Legislating best leading practice successful rehabilitation and penalty measures to ensure tenement holders /operators must also meet their legal obligation of rehabilitation.
- An independent audit of the current legacy mines/quarries is required with location, mine type, commodity, commodity size or mine footprint. A cost inventory data base for legacy mine rehab in SA is paramount so they can identify high risk sites and prioritize rehabilitation.
- An independent audit of current mining/quarry bonds held in South Australia is required to ensure that there is adequate financial assurance for proper rehabilitation of the site. Olympic Dam, Leigh Creek coal mine and the Middleback Range iron ore to also be included in the audit. What steps will be taken to dress the shortfall so that taxpayers are not liable?
- 100% cash bond payment. Reviewed and updated every 3 years. Interest can be used to refund legacy mines.
- Specialist professional expertise must be utilised in the drafting of a detailed closure plan. Estimated costs of closure and rehabilitation must be included in the requirements for any mining proposal.
- **I totally oppose the suggestion Page 83:** *one company could search and extract what they want while freeing up rights for other operators to search and recover different minerals in same area.*
- **I totally oppose the suggestion on Page 89:** *A simplified grant process for leases where the environmental assessment of an operations is left to the PEPR stage (with appropriate assessment processes being introduced at that stage.*
- **I advocate the repealing the exemption from the provisions of the Environment Protection Act and Natural Resource Management Act. Indenture operations must be subject to the same**

State laws as every other mine. Pg; 88 *What opportunities are there to improve regulation of indentured mining operations in South Australia?*

- I support the establishment of a Government funded Landowners Advisory and Support Committee.

I request my email address is not published.

Regards,

Amy Foyster.

