



DEPARTMENT OF PRIMARY INDUSTRIES
DRAFT FOR PUBLIC COMMENT:
CODE OF PRACTICE FOR MINERAL EXPLORATION

SUBMISSION

Minerals Council of Australia, Victorian Division

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1. THE MINERALS COUNCIL OF AUSTRALIA

1.1 Introduction

The Minerals Council of Australia (MCA) is the peak industry association that represents the corporate minerals companies in Australia. The members of the MCA are engaged in mineral processing, mining, exploration, or the provision of services to the industry and account for more than 85 percent of mineral industry output in Australia. The Victorian Division of the MCA represents the interests of members operating in Victoria.

The minerals sector accounts, directly and indirectly, for around 8.0 per cent of the Australian economy. In 2006-07 the sector generated exports of \$91 billion, representing approximately 50 per cent of Australia's total merchandise exports and over 40 per cent of total exports of goods and services.

Victoria's minerals and petroleum sector accounts for \$3.5 billion of the Gross State Product (GSP) or about 2%¹ and increasing. Investment in the Victorian minerals sector is at a record high and increasing. The investments are in the brown coal sector, the gold sector and the mineral sands sector. In addition, private industry expenditure on exploration is at a record high of \$84.5 million per annum to December 2006.

As with elsewhere, further investment in the minerals industry in Victoria, is influenced by the identification of viable mineral resources, access to the land occupied by those mineral resources, financial resources, the support of the community, and the availability of a skilled workforce. Consequently, the publication of a comprehensive Code of Practice for Mineral Exploration in Victoria is critical to unlocking the mineral wealth of the State.

The MCA congratulates the Department of Primary Industries (DPI) on its initiative to produce such a Code and is pleased to make the following submission on the draft Code prepared for public comment in July 2007.

1.2 Sustainable Development

The minerals industry's commitment to continuous improvement in minimising and remediating its environmental impact is a fundamental plank of the industry's broader commitment to sustainable development. This is demonstrated by the MCA's requirement that member companies are signatories to *Enduring Value – the Australian Minerals Industry's Framework for Sustainable Development*². In addition, the MCA advocates the shared responsibility of all participants in the value chain or life cycle of a product in mitigating any negative environmental and/or social impacts and in optimising societal values, consistent with the MCA's position on sustainable development.

The philosophy of *Enduring Value* is consistent with the COAG regulatory principles. Signature to *Enduring Value* is a condition of membership to the Minerals Council of Australia. However all exploration, mining and minerals processing companies and contractors are eligible to become signatories to *Enduring Value*, provided that they commit to meeting the *Enduring Value* obligations.

¹ ABS Catalogue No. 5220.0, Australian National Accounts, 2005/06.

² *Enduring Value, The Australian Minerals Industry Framework for Sustainable Development*, Minerals Council of Australia, June 2005.

Enduring Value provides a program of continuous improvement and encourages companies to achieve sustainable development performance outcomes beyond the minimum standard set by regulation. The overall strategic objective is for continuous improvement in financial, social and environmental performance in exploration and mining projects that is attuned to community expectations and, hopefully in the future, recognised and rewarded in statutory approval processes that are nationally consistent and efficient.

2. OVERVIEW OF THE CODE OF PRACTICE

The structure, presentation and general content of the Code is vastly superior to any of the preceding drafts. The content is thorough and from our position, much of what is recommended is standard practice, and fits well in the Code of Practice document.

However, there are a number of specific requirements or recommended practices that are not in conformity with current good practice in the field or in a regulation context. We have identified these areas of concern in Section 3 below.

In a general context we have some concern with the fundamental division of exploration activity and its regulation into non-intrusive and intrusive exploration. We believe that the division into low impact exploration and 'regular' exploration is far too coarse. For example, reconnaissance activities are a key to early stage exploration, and these need to be cheap and quick to be effective. Onerous constraints will stifle early stage exploration and hence by default, advanced staged minerals development. Low impact exploration is too restrictive for reconnaissance activities.

Drilling and Low Impact Exploration -

We would prefer to see the inclusion of reconnaissance drilling under Low Impact Exploration rather than being elevated to 'high impact' activities in 'regular' Exploration.

For example, one of our Victorian members drills up to 40,000m of NQ diameter air-core reconnaissance drilling every year – mostly along roadsides, tracks and fence lines. Each hole is rehabilitated at the time and checked later. There are already solid controls and systems which control this type of drilling. If this type of work is included together with other genuinely more invasive activities, we move away from the relatively quick and cheap nature of this type of exploration.

The new Aboriginal Heritage Regulations have recognised that drilling (excluding pads and tracks) is not in itself a high impact activity. Referring to reconnaissance drilling as high impact is contradictory to these Regulations and should be corrected.

The Minister has the ability to review the definition of Low Impact Exploration in the Mineral Resources (Sustainable Development) Act and we would advocate a revision to include low impact reconnaissance drilling.

3. SPECIFIC COMMENTS ON THE CODE OF PRACTICE

3.1 Community Engagement

The Recommended Practice of notifying MPD of the company's contact person would appear a redundant requirement (dot point 3, p6). This requirement should only be required if the contact person is different or changes from that advised on the licence application and on the work plan application. To do otherwise would result in unnecessary duplication.

The Recommended Practice of requiring notification of exploration activity to the Chief Executive of the local municipality (dot point 4) is sound in theory and also recommended by MCA. However, the execution of this practice often leads to confusion and unnecessary delays. The reason for the confusion is the very poor understanding that municipalities have of the exploration approvals process. Often they wish to intervene. For this recommendation to be effective DPI should review the local government practice notes and make sure that all relevant municipalities are continuously kept up to date. It may also be useful if DPI were to make copies of the practice note available to all explorers to hand to the local authority when they make contact.

The list of references for further information (p5) should also include reference to "MCA Victoria (2006), Community Consultation Toolkit - A Good Practice Guide for Victorian Explorers and Miners" which is listed in the references of the Code (p38). Another excellent reference is the DSE and DPI "Effective Community Engagement Workbook and Tools", Version 2.

Standard Work Plans (p6): If the term is to be retained, a definition of "intrusive sampling" is required.

Area Work Plans (p6): the 21 days notice period to the MPD/Crown Land Manager is too long. We believe that this should be 7 or 14 days.

We also note that the Work Plan guidelines have been extracted from the Code as previously suggested by MCA. However, we anxiously await the finalisation of the draft Exploration Area Work Plan Guideline which was released in June 2006.

3.2 Vegetation and Fauna

The Recommended Practice for the relocation of habitat and time of removal of vegetation are far too onerous (dot points 4 to 7). Our concern relates particularly to reconnaissance work and the constraints on habitat re-location, time constraints on removal of tress and royalties on timber etc. In addition, the specific detail regarding the time frame for notice (1 month) for the removal of trees is far too long.

Box Ironbark Region (p8): The Code refers to the need to comply with the recommendations of the ECC 2001 report. The requirement should actually be to the Governments response to the recommendations as not all of the recommendations were endorsed by the Minister.

Public Safety Zones (p9): PSZs are described correctly in the second sentence but it should also be stated that they have a finite life. Therefore the existence of new PSZs should be checked in the gazette from time to time.

3.3 Soil Management

We question the wisdom of positioning of soil stockpiles on the uphill side of a trench as this may pose a safety threat for people working in the trench due to cave-in or wash-in (Recommended Practice dot point 2).

Recommended Practice dot point 5 is also questioned. Licence conditions for the storage of topsoil stockpiles is generally 2m not 1m as indicated. Why not be less prescriptive and say “as low as is feasible, say less than 2m”.

3.4 Plants, Diseases, Weeds and Pest Animals

The Recommended Practice related to vehicle and equipment wash downs detailed in dot points 4 and 5 are far too onerous and in many ways impractical. For example, the stripping of cover plates on equipment, and washing down in purpose built facilities is neither reasonable nor practical, as most areas where exploration occurs do not have any of these sorts of facilities. A more practical requirement to simply wash down before leaving site each time to ensure noxious weeds and seeds are not transferred should suffice.

We would also recommend that machinery should be cleaned prior to entering private land as well as Crown Land (dot point 3).

3.5 Water Quality and Aquatic Habitat

Stream Crossings (p12): The Code of Forest Practice for Timber Production was revised and re-published in 2007 – the revised doc should be referenced.

3.6 Fuels, Lubricants and Hazardous Material

We have no comment on this section.

3.7 Archaeological, Historic and Cultural Sites

We point out the typo in the last line of second last dot point under recommended practice (p14): subject to a Management ...

3.8 Fire Precautions

We have no comment on this section.

3.9 Waste and Redundant Equipment

We have no comment on this section.

3.10 Camping

We have no comment on this section.

3.11 Noise

The discussion on noise mentions the requirement to protect “sensitive receptors” against nuisance noise. A definition of sensitive receptor is required.

The Licence Conditions and Recommended Practice both refer to EPA limits. The EPA have noise guidelines for urban activity but the guideline for rural Victoria remains an interim or draft guideline. As a draft, it has no legal status and should not be referred to in this Code. We strongly object to the implementation of regulation by stealth.

3.12 Air Emissions, Dust and Lighting

The discussion on air emissions, dust and lighting mentions the requirement to manage impacts to the nearby "sensitive receptors". The Recommended Practices also mention sensitive receptors. Again, definition of sensitive receptor is required.

The Recommended Practice makes reference to the Protocol for Environmental Management (PEM) for air quality management for mining and extractive industries. This document is not yet finalized or released as EPA policy. The text should recognise that the PEM (when completed) will provide information.

3.13 Livestock, Domestic Animals and Crops

We have no comment on this section.

3.14 Geophysical and Geochemical Surveys and Gridlines

We have no comment on this section.

3.15 Explosives

The second paragraph discusses the use of explosives in mines. This Code is about exploration so the relevance of the paragraph is questioned.

The list of regulations that must be complied with would appear to be out of date. The Mineral Resources (Health and Safety) Regulations have been superceded by the Occupational Health and Safety Regulations 2007. It is our understanding that explosives are now regulated under the Dangerous Goods Act

3.16 Tracks and Roads

Operation (p24): It should also be noted that Road Opening permits may be required from Local Government.

3.17 Drill Sites, Costeans and Bulk Sampling Excavations

The discussion could imply that all drill holes have excavated drill pads. This is not the case. Many drill holes do not require a pad to be excavated. It is recommended that the first paragraph start with "Costeans and bulk sampling sites and excavated drill hole pads should ..."

Construction (p25): The last dot point should refer to "Ensure that excavated drill pads ..."

Operations (p25): An additional dot point should note that "Wheel mounted equipment should be used in favour of track mounted equipment where ever practical to minimise soil disturbance".

3.18 Drill Operation, Construction and Decommissioning

Licence Condition 18.5 refers to the "cement surface plug". Is this meant to mean the "concrete surface plug".

Drilling Operations for Coal Bed Methane (p27): The last three dot points should be sub points of the one above.

3.19 Underground Exploration

The discussion on underground exploration covers arrangements for exploration of old workings and the precautions that are necessary. There should also be a discussion about exploration drilling from operational underground workings and in this case it is important that the drillers comply entirely with the mine operational safety rules, procedures and authorisations etc.

3.20 Rehabilitation

Sample Points (p30): The second dot point refers to "seismic drillholes". We presume this is meant to mean "seismic lines and drill holes".

3.21 Reporting, Monitoring and Auditing

The discussion on reporting mentions the need for incident and annual reports but fails to link these reports to the Regulation which includes Schedule 14 reporting. It would be good regulatory practice to cluster the reports into one system rather than multiple reporting processes.

The Licence Condition 21.3 requires "any incidents related to the site" to be notified to DPI as soon as practical. This condition is considered far too onerous and impractical. There should be clarification where incidents over a certain level/nature are reported immediately to DPI but surely not all incidents. All incidents are usually reported at the Environmental Review Committee (ERC) and in the Schedule 14.

The advice that complaints must be recorded using the proforma in the appendix is noted. However, whilst this is good practice we question the Regulatory basis for this requirement.

3.22 Documentation and Records

The document format (p33) does not include a requirement for authorization. Authorisation should be a part of document control.

3.23 Operations Districts

The telephone numbers quoted for the South West Office of DPI have 54 prefixes which appears incorrect. We understand the Ballarat Office to be the centre for the South West operations which has a prefix of 53.

4. CONCLUSIONS

In general we are very positive about the draft Code. It only requires relatively minor improvement to ensure it delivers good practice outcomes in the field and good practice regulation.

There is however, some concern with the division between low impact exploration and 'regular' exploration. We have recommended that reconnaissance drilling be included in the definition of low impact exploration.