

# **Proposed Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2019**

Statement of Reasons



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# Introduction

On 20 September 2019, the Department of Jobs, Precincts, and Regions (DJPR) released a Regulatory Impact Statement (RIS) to facilitate public consultation on the proposed Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2019 (the proposed Regulations). The public submission period closed on 21 October 2019.

DJPR received 13 submissions on the proposed Regulations and the RIS:

1. Individual survey response (1)
2. Individual survey response (2)
3. Individual survey response (3)
4. Individual survey response (4)
5. Individual survey response (5)
6. Individual survey response (6)
7. Individual survey response (7)
8. Individual survey response (8)
9. Individual survey response (9)
10. Individual survey response (10)
11. Individual survey response (11)
12. Construction Material Processors Association Inc. (CMPA)
13. Cement Concrete & Aggregates Australia (CCAA)

The submissions as a group responded to these three areas described in the RIS and the consultation draft of the proposed Regulations:

1. Work plans: consolidate requirements in the regulations and clarify risk management plan content, align with the requirements in the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019.
2. Rehabilitation: clarify existing legislative requirements for rehabilitation plans via an outcomes-based model, align with the requirements in the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019.
3. Reporting requirements: require reporting on resources and production data

Following detailed consideration of each submission received in response to the RIS, no changes will be made to the proposed Regulations other than some adjustments to infringement offences (following further consultation with the Infringements Unit of the Department of Justice and Community Safety) and other minor and technical changes. The proposed Regulations are preferred because they:

- Clarify the information required in work plans, rehabilitation plans and annual returns compared to the current regulations.
- Will provide identified benefits to the community and the State.
- Can be applied in proportion to the nature of work under an extractive industry authority.

Industry body submissions opposing the proposed Regulations did not support the status quo of the current Regulations. The substantive changes proposed by industry would require changes to the *Mineral Resources (Sustainable Development) Act 1990* (the Act), such as the removal of the requirement for risk-based work plans or the introduction of a new rehabilitation bond system. In *Helping Victoria Grow – Extractives Resources Strategy* the government committed to create efficient resources legislation. The issues with the Act raised by the extractives industries will be considered in future projects to improve the overall regulatory framework.

# Summary of issues raised

The table summarises the issues raised in the submissions, sets out DJPR’s responses and provides a statement of reasons for each. Several of the submissions received were broadly supportive and raised no issues, and as such are not included in the table.

**Table 1 – Summary of proposed changes and responses**

Issue (submission/s)	Comment / Issue raised	DJPR response
<b>1. Work Plans</b>		
Risk management plans (CMPA)	<p><i>Impact on Small to Medium Operations</i> – CMPA considers the requirements for risk management plans lack proportionality, with small to medium quarries subject to the same stringent work plan approval process as the Hazelwood coal mine.</p> <p><i>Cost of risk-based work plan introduction</i> – CMPA criticises the cost of implementation of risk-based work plans for the sector and the RIS assessment of the annual regulatory burden for the extractives sector, derived from last year’s ACIL Allen report. The CMPA has produced a paper on regulatory burden “Financial impact of the introduction of risk-based work plans on 8 December 2015”.</p>	<p><b>Noted</b></p> <p>Impact on Small to Medium Operations – the regulations are intended to be proportionate to the operations of the extractives sector. Smaller operators should have simpler risk management plans if they have less complex operations.</p> <p>Cost of risk-based work plan introduction – the CMPA ‘Financial Impact’ paper addresses the costs of the overall introduction of risk-based work plans since 2015, not the impact caused by the proposed Regulations. The ACIL work is an estimate based on a limited number of industry survey responses. The department welcomes the further information provided on regulatory burden but recognises the challenges in separating the burden experienced as a direct result of the regulations, the Act itself and other Acts. The department will undertake further analysis on these issues within the work program on the broader fees, charges and royalties review.</p>
Risk management plans (CCAA)	<p>CCAA does not support amendments that will align risk management plan requirements with those in the Mineral Industries Regulations 2019.</p> <p>CCAA opposes the suggestion that the implementation of the regulations could include a new Risk Management Code of Practice and new Ministerial Guidelines, on the grounds this would increase red tape and regulatory burden.</p>	<p><b>Noted</b></p> <p>The regulations are intended to be proportionate to the operations of the extractives sector. Smaller operators should have simpler risk management plans if their operations are simple.</p> <p>The proposed Regulations do not propose or otherwise require a Code of Practice or Ministerial Guideline. The RIS implementation options table only includes them as non-regulatory supports for full implementation of the amended regulations (RIS Table 30).</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
<p>Risk-based work plans – identification of rehabilitation hazards (regulation 9(b)) (5, 6)</p>	<p>Regulation 9(b) should be deleted since rehabilitation hazards will be identified as required by regulation 11(2)(f) during the 'identification and assessment of relevant risks that the rehabilitated land may pose'. Given these hazards will be detailed in rehabilitation plans, they should not be requested in the work plan by two separate regulations. If necessary, 11(2)(f) could be reworded to include reference to 'hazards'.</p>	<p><b>No change proposed</b></p> <p>Subregulation 9(b) and 11(2)(f) should be included in the proposed Regulations as they relate to different information required in different parts of a work plan.</p> <ul style="list-style-type: none"> <li>Subregulation 9(b) requires the identification of hazards that will occur during work on rehabilitation under a work plan, so that these risks will be managed during the life of the operation. This regulation collects information required for a work plan to comply with section 77G(3)(b) of the Act.</li> <li>Subregulation 11(2)(f) provides for the identification of risk that may exist after rehabilitation has occurred. This information will be used to assess the likely effectiveness of a proposed rehabilitation plan and is collected in relation to a rehabilitation plan as part of the rehabilitation plan included in the work plan under section 77G(3)(d) of the Act. Information will only be collected under this subregulation if relevant, i.e. if the proposed rehabilitation plan includes a final land form that is not self-sustaining.</li> </ul> <p>The information collected under proposed subregulation 11(2)(f) about likely ongoing land management risks provides government with a more holistic understanding of rehabilitation in the context of achieving a safe, stable and sustainable land form. Narrowing the proposed Regulation may unduly restrict the ability to gather requisite information.</p>
<p>Risk-based work plans (11)</p>	<p>Risk-based work plans are always subjective, and primarily functional in business for financial risks. Mining is fundamentally an engineering undertaking, based in physical disciplines that can clearly determine the outcome. Work plans need to clearly state the objective, the method by which the outcome will be achieved, and all measures used to ensure protection of the public and the environment, as well as ensure a successful outcome. Other states have tried the risk-based approach in mining and now returned to the previous practices – Victoria should not have to perform this exercise at cost to the tax payers as well.</p>	<p><b>Noted</b></p> <p>The requirements for risk-based work plans are included in the MRSD Act and so can only be changed by amendments to that Act. This proposal is out of scope of the regulations and the Regulatory Impact Statement.</p> <p>Future work on legislation will consider legislative developments and leading practice in other states.</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
RRAMS database (10)	<p>The current centralised RRAM "risk assessment" database is not user friendly, is complicated and serves little purpose. Does a note pad that can access the RRAM system via the internet meet the compliance requirement Part 6 Record keeping 24(c)?</p> <p>The work plan should be a clear and simple document. This process requires the production of a Work plan to suit RRAMS and another to suit the management of the quarry.</p>	<p><b>Noted</b></p> <p>The usability of the RRAM database is an operational matter and so out of scope of the Regulations.</p> <p>Ongoing work to improve regulatory practice in Earth Resources Regulation is considering the functionality and usability of the RRAM database.</p>
<h2>2. Rehabilitation and rehabilitation plans</h2>		
<p>Comment on evidence for and regulatory impact of preferred rehabilitation plan option (CMPA)</p>	<p><i>Rehabilitation bond rises</i> – CMPA submits that the assessed regulatory burden of new rehabilitation plans could increase rehabilitation bonds by an increase of \$18–28 million on 2017/18 rehabilitation bond figures and this could see an increase in the average construction material unit price from \$16/tonne to \$19-21/tonne.</p> <p><i>Lack of evidence to support aligning rehabilitation regulations for extractives industries with those for mineral industries</i> –</p> <ul style="list-style-type: none"> <li>• CMPA criticises the ‘lack of evidence that justifies the same regulation as the minerals industries’ and notes that the United States Environment Protection Authority does not apply the same standard.</li> <li>• The CMPA criticises the list of potential impacts and risks of poor rehabilitation planning on the grounds that the Regulatory Impact Statement does not provide evidence that those risks are occurring.</li> </ul>	<p><b>Noted</b></p> <p><i>Rehabilitation bond rises</i> – the CMPA calculation of future bond costs and potential price rises is based on a projected increase in rehabilitation costs of 20-30% for quarries. This is an estimate which assumes:</p> <ul style="list-style-type: none"> <li>• The projected cost increases for quarries would be the same as that quoted for mineral industries quoting the 20–30% cost figure from the Regulatory Impact Statement for the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019.</li> <li>• All quarries would move to new rehabilitation plans at the same time.</li> </ul> <p>The cost figure from the Mineral Industries Regulations was not used for extractives industries because there is less evidence about the likely effect of bond reviews on rehabilitation plans for the sector.</p> <p>The proposed Regulations will only apply to new quarries, or quarries who seek to vary their work plans.</p> <p><i>Lack of evidence to support rehabilitation changes</i> – the same regulations (including rehabilitation requirements) have been applied to mines and quarries in Victoria since extractive industries were bought into the MRSD Act by the Resources Industry Legislation Amendment Act 2009. Both sectors are subject to the same statutory obligations for rehabilitation in Part 7 of the MRSD Act.</p> <p>The Regulatory Impact Statement options analysis identifies that because the status quo rehabilitation provisions are conceptual rather than measurable, they do not ensure rehabilitation plans contain a</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
<p>General Comments on Rehabilitation Plan Information Requirements (CCAA)</p>	<p><i>Proposal for offsetting benefits</i> – CCAA does not support the proposed changes to the Rehabilitation Plan without the Regulations offsetting the proposed increase in costs with some form of new benefit. Proposes either:</p> <ul style="list-style-type: none"> <li>Any change to rehabilitation plans due to these Regulations <u>does not</u> require a Work Plan Variation.</li> <li>Introducing a Two Track Discounted Bond System, as proposed in the report of the EDIC inquiry into greenfields mineral exploration and development (2012).</li> </ul> <p><i>Assessment of potential risks posed by existing rehabilitation plans</i> - CCAA criticises how the RIS assesses potential risks to the state of extractive industry current rehabilitation plans. It argues that the potential risks are adequately covered by existing rehabilitation bonds based on previous costs to the Government of rehabilitating former quarries.</p> <p>CCAA considers that if bonds are not set at an appropriate level this is a failure of compliance by the regulator not industry. CCAA notes the rate of bond reviews per 100 MRSDA licences and Work authorities by ERR decreased from 15 per year in 2011/12 to 8 per year in 2017/18.</p>	<p>sufficient level of detail to support an accurate assessment of overall rehabilitation liability.</p> <p><b>Noted</b></p> <p><i>CCAA proposals to offset rehabilitation changes</i> – amendments to the Act are needed to change the process for setting bonds. The offset changes cannot be made within the proposed Regulations.</p> <p><i>CCAA proposal on rehabilitation plan changes</i> – amendments to the Act would be required to meet CCAA’s submission that ‘<i>any change to rehabilitation plans due to the Regulations does not require a Work Plan Variation</i>’. However, the proposed Regulations will enable rehabilitation plan changes to follow the two existing pathways for plan change, notification or variation, so that changes to rehabilitation plans will not require a variation if they do not create a significant increase in hazards. This is achieved by adding ‘<i>rehabilitation hazards</i>’ to proposed regulation 14(a).</p> <p><i>Assessment of potential risks posed by existing rehabilitation plans</i> – the Regulatory Impact Statement does not claim that all existing rehabilitation plans are inadequate, or that all bonds are set at an inappropriate level. The Regulatory Impact Statement options identify that status quo rehabilitation provisions are conceptual rather than measurable, and as such do not ensure rehabilitation plans contain a sufficient level of detail to support an accurate assessment of overall rehabilitation liability.</p>
<p>Definitions (reg 5) (10)</p>	<p>The definitions in regulation 5 leave a lot open to officers of the State to interpret. For example, the definition of ‘<b>Safe, stable and sustainable</b>’ rehabilitation includes (d) “aligns with the principles of sustainable development ”</p> <p>Questioned whether this was a useful or practical definition</p>	<p><b>No change proposed</b></p> <p>The “<i>principles of sustainable development</i>” are defined in section 2A of the Act. It is intended that these principles guide authority holders in making decisions about whether a proposed rehabilitated land form will be sustainable. For example, an authority holder should consider whether biological diversity would be protected, and ecological integrity maintained by the proposed rehabilitated land form (section 2A(2)(c) Act).</p>

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<p>Rehabilitation plan to include proposed land use (reg 11(2)(a))</p> <p>(5, 6)</p>	<p>Questioned proposed regulation 11(2)(a) that a rehabilitation plan should include 'proposed land uses for the affected land after it has been rehabilitated' on the grounds that:</p> <ul style="list-style-type: none"> <li>• End uses for quarry sites can change over time and should not be too prescriptive, otherwise more work plan variations would be required.</li> <li>• Land uses for rehabilitated land should be up to the landowner and relevant town planning constraints. It is unfair for community views to impose another layer of restrictions.</li> <li>• There will be very little value in consulting the current community regarding a rehabilitation plan that may or may not eventuate as described at the end of the quarry's life in 30 or 40 years, when not only the community but the surrounding landscape is likely to be significantly different.</li> <li>• The community will have the chance to object to any planning permit application for use of the rehabilitated land at the appropriate time – the appropriate time for community input to impose restrictions is not prior to the submission of the work plan.</li> </ul>	<p>Guidelines to support the new rehabilitation plan information requirements will clarify how authority holders may achieve a safe, stable and sustainable landform consistent with the principles of sustainable development.</p> <p><b>No change proposed</b></p> <p>The rehabilitated landform under the proposed Regulations may support multiple proposed land uses, which can be broadly described rather than being overly prescriptive.</p> <p>A Ministerial Guideline may clarify the level of information required for the proposed land use(s), including community input. The purpose of identifying a land use in the rehabilitation plan is to strengthen accountability for progressive rehabilitation towards the proposed final landform(s). The subregulation does not require authority holders to deliver that specific use, only the landform.</p> <p>Decisions about future land use will remain with the land owner and the relevant planning authorities. Communities will continue to be consulted during the planning process, consistent with planning legislation.</p> <p>The requirement to consult with the community sits within the MRSD Act. The information about current community views on future land use gathered under this proposal will assist the Department Head in making decisions about whether to approve a work plan.</p>
<p>Rehabilitation plan to include proposed land use that considers community views expressed during consultation (reg 11)(2)(d) and (e)</p> <p>(6)</p>	<p>Concerned that it will be difficult to meet the requirements under subregulations 11(2)(d) and (e) to provide:</p> <ul style="list-style-type: none"> <li>• Criteria for measuring whether the rehabilitation objectives have been met.</li> <li>• A description of, and schedule for, each measurable, significant event or step in the process of rehabilitation.</li> </ul> <p>There are too many unknowns around the specifics of the final landform and use to accurately determine measurement criteria and milestones:</p>	<p><b>No change proposed</b></p> <p>The proposed subregulations are enabling. The extent to which criteria and milestones are set will depend on the type of work necessary to achieve safe, stable and sustainable rehabilitation and the nature of the site. If the rehabilitation plan is relatively simple, i.e. the objective is to return the land to pasture, then the criteria to measure whether it has been met will be relatively simple and the milestones for the work will also be simple. The proposed Regulation allows flexibility to develop criteria that could apply over the life of the rehabilitation plan.</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
	<ul style="list-style-type: none"> <li>Milestones could vary significantly depending on the availability of funds and the financial health of the work authority holder at the time of rehabilitation.</li> <li>Determining measurement criteria and milestones will be time and money wasted to prepare something that is highly likely to need significant amendment by the time final rehab occurs.</li> </ul>	<p>Guidelines will provide further information on setting criteria and milestones in rehabilitation plans.</p>
<p>Progressive rehabilitation (reg 11(4)(b)) (10)</p>	<p>Concerned about whether the requirement in subregulation 11(4)(b), that a rehabilitation plan should include 'proposals for the progressive rehabilitation', will be applied to sites that cannot be progressively rehabilitated. For example, if a quarry is to be rehabilitated by filling the excavated void with water, the process of filling the void will start once quarrying ends.</p> <p>Concerned that an operator in this circumstance may be penalised for not progressively rehabilitating.</p>	<p><b>No change proposed</b></p> <p>The proposed subregulation requires information on progressive rehabilitation to be included in a plan because all authority holders have an obligation to 'rehabilitate land in the course of doing work under the authority and must, as far as practicable, complete the rehabilitation of the land before the authority or any renewed authority ceases to apply to that land' (section 81(1) of the MRSD Act). The proposed subregulation adds milestones to improve the existing requirement.</p> <p>The proposed subregulation is enabling because it asks for 'proposals for the progressive rehabilitation'. If a quarry has a rehabilitation plan for a landform where progressive rehabilitation is not practicable, they will be required to 'complete the rehabilitation to the extent possible before the authority expires' (section 81(1)) or 'as expeditiously as possible' after it expires (section 81(2)).</p>
<p>Rehabilitation bonds (3)</p>	<p>Rehabilitation in the mining sector has historically been woefully inadequate, there needs to be consideration given to a radical overhaul of the current bond system as the inflation of costs to rehabilitate the site during the life of a mine leaves a burden on the state when it collapses.</p>	<p><b>No change proposed</b></p> <p>The proposed amendments to rehabilitation plan requirements aim to ensure the department has the information needed to set bonds at an appropriate rate.</p>
<p><b>3. Reporting and information requirements</b></p>		
<p>General comment on reporting proposals (CMPA)</p>	<p>Annual reporting of resources information is not required because the initial estimates are available through the work plan and deducting total annual reported tonnage from initial reserve estimates would provide the reserves data.</p>	<p><b>No change proposed</b></p> <p>There is a clear and recognised need to better understand the extractives supply in an environment of increased demand. Government, community and industry all benefit from access to data to inform decision-making on infrastructure, transport, logistics, and construction.</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
General comment on reporting proposals (CCAA)	CCAA supports the introduction of annual reporting of resource estimates. CCAA recommends that industry is consulted on the format of the required forms and the option of electronic submission.	<b>Agreed</b> The department will work with industry to develop the future reporting forms and associated guidance.
General comment on reporting proposals (10)	The mandatory reporting of what is essentially commercial information, then discoverable through Freedom of Information discovery is over-reach.	<b>No change proposed</b> The information prescribed in annual reporting requirements of the proposed Regulations is collected under section 116A of the Act and is necessary for the administration and enforcement the Act.  The information contained in individual annual reports is subject to the secrecy provisions in the Act while the authority is in force. Annual reports furnished under subsection 116A(1) or (2) may be made available by the Minister for inspection by the public at any time after the extractive industry work authority or consent under section 77A ceases to be in force.
General comment (review of geological data by trained geologists) (11)	Reporting of geological data, particularly in relinquishment reports, should be thoroughly vetted by senior geologists specifically working in the same regional geology to ensure all information is sensible in relation to adjoining areas.	<b>Agreed</b> The Geological Survey of Victoria is involved in reviewing and assessing geological data reported by extractive industries authority holders, including relinquishment data.
Annual report Information on density of stone (5)	Density can vary, particularly in a clay and shale quarry. Is the operator required to test different materials every year for no benefit?	<b>No change proposed</b> Producers/operators who report production by cubic metres would have measured densities during the resource estimation process prior to applying for a work authority. Density variations should have been constrained at this time. If variations in deposit density characteristics have been encountered during operations, then these can be reported so production data from all quarries can be converted to common units for more accurate supply-demand analyses. This is important when comparing a single commodity or product stream.

Issue (submission/s)	Comment / Issue raised	DJPR response
<p>Information on maximum depth of extraction of the stone reg 19(3)(f)(iv))</p> <p>(6)</p>	<p>Is 'maximum depth of extraction' supposed to be metres below natural or original surface level, or is it simply a reduced level (RL)?</p> <p>Why is this relevant? The maximum depth allowed for extraction has already been specified in the work plan or Work Authority Conditions, so including this requirement only forces extra cost in terms of surveying onto the work authority holder.</p> <p>The RIS mentioned 'depth drilled', which is very different to 'maximum depth of extraction'. Has this been wrongly described in the RIS or the Regulations?</p>	<p><b>No change proposed</b></p> <p>The details of how to report the maximum depth of extraction will be prescribed in the annual reporting template. Guidance will also be produced to assist this process.</p> <p>Responses to specific questions:</p> <ol style="list-style-type: none"> <li>1. The maximum depth will be an RL.</li> <li>2. The depth is relevant to understand the vertical extent of extractive operations with respect to stratigraphic units, water table etc.</li> <li>3. Appears to be a mistake in the RIS, which should describe depth of extraction consistent with subregulation 19(3)(f)(iv).</li> </ol>
<p>Information on value of sales at gate (reg 19(4)(a))</p> <p>(6)</p>	<p>Regulation 19(4)(a) should surely read '...not including costs...' instead of '...less costs...'? There will be a big difference between the two, and 'less costs' could result in a product with negative value.</p>	<p><b>No change proposed</b></p> <p>The term 'less costs' is intended to mean that the amount of costs of outward freight and cartage must be deducted from the actual sales, consistent with the current Regulations. See Schedule 2, Note 3 'Value of Total Sales at Gate'.</p>
<p>Prescribed times for furnishing the annual report to the Minister (reg 19(6)(10))</p>	<p>The aggregation of information required is over-reach and to be required within 31 days of the end of financial year unrealistic.</p>	<p><b>No change proposed</b></p> <p>Authority holders can seek an extension if they have insufficient time to compile information, as per proposed subregulation 19(7). The Minister may extend the period by which information must be furnished for a financial year, if the extractive industry work authority holder or former extractive industry work authority holder requests the extension within 31 days of the reporting date.</p>
<p>Certain information to be kept at the worksite (reg 24(c))</p> <p>(10)</p>	<p>The regulation should state that a quarry is deemed "in use or being used" if a Work Authority is registered, an approved work plan exists, a rehabilitation bond is held and the quarry not been rehabilitated.</p> <p>It is unclear whether 24(c) means that the record can be held at the head office if it is an occasional use quarry.</p>	<p><b>No change proposed</b></p> <p>The proposed Regulation is intended to ensure that relevant information is kept at a worksite where work is taking place. If there is an occasional quarry at which no work is occurring, the obligation under proposed regulation 24(c) will not apply so the suggest change is not necessary.</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
<b>4. Annual Reporting on progress with rehabilitation</b>		
<p>Information on progress with rehabilitation (2, 3, 11)</p> <p><i>Extractive industries annual reports under the current regulations do not include reporting on progress with rehabilitation. During pre-consultation ahead of the release of the RIS, the question was raised whether extractive industry annual reports should address rehabilitation. This policy proposal was not able to be incorporated in the RIS or draft Regulations, but a question on the issue was added to the consultation survey on Engage Victoria to test support for the change.</i></p>	<p>Six survey respondents supported this proposal and four did not.</p> <p>Three respondents who supported the proposal provided suggestions about the types of information that should be sought:</p> <ul style="list-style-type: none"> <li>• Quote the percentage of disturbed land rehabilitated to a stable state, independently assesses for viability and long-term productivity by a qualified authority.</li> <li>• Rehabilitation requirements such as revegetation, land reclamation, amount spent on continual rehabilitation [should be sought]. They need to report on the amount spent on works, they should include this into the mix.</li> <li>• Extra costs to rehabilitate due to unsuccessful rehabilitation due to both natural causes, such as severe dry or wet spells, and human environmental damage by the general public, such as detectors digging under tree roots or dozing areas on mining leases.</li> </ul>	<p><b>No change proposed</b></p> <p>The department has decided not to include additional rehabilitation information in annual reports, based on survey responses alone. While the survey responses showed some support for including reporting on rehabilitation, they did not show a consensus on the matters to be included in rehabilitation reporting.</p> <p>Industry bodies the CMPA and the CCAA did not respond to the survey and did not address the issue of rehabilitation reporting in their submissions.</p> <p>The department will consider annual reporting on rehabilitation as part of the mid-term review of the proposed Regulations, at which point the new rehabilitation plan requirements will have been in force for some time and a meaningful assessment can be made.</p>
<b>5. Other matters</b>		
<p>Public education (11)</p>	<p>There needs to be more public education about mining leases and the legal rights of the tenants.</p>	<p><b>Noted</b></p> <p>The department notes this feedback provided by stakeholders and will consider as part of future changes to primary legislation or administration of the regulatory framework.</p>

Issue (submission/s)	Comment / Issue raised	DJPR response
		<p>These matters are outside the scope of the Regulations, no further action will be taken at the stage.</p>
<p>Community engagement (2)</p>	<p>Community engagement should be encouraged, sought and valued as the community are the most affected by projects.</p>	<p><b>Agreed</b></p> <p>Extractive industries authority holders must consult with the community throughout the period of the work authority, under section 77K of the Act. Stakeholder engagement is always encouraged.</p>
<p>Interactions with landowners/occupiers (9)</p>	<p>Contact between department people and work permit holders to be more constructive. Instead of officers just turning up without not calling or no notice, please give us the respect we deserve.</p>	<p><b>Noted</b></p> <p>The Department notes this feedback and will consider it in its administration of the regulatory framework.</p>
<p>Extraction of salt (3)</p>	<p>Need to regulate the extraction of salt as this is an area not covered by any regulator.</p>	<p><b>Noted</b></p> <p>The extraction of salt may be subject to the minerals regime of the MRSD Act where the salt occurs naturally as part of the earth's crust. Salt is not stone as defined in section 4(1) of the MRSD Act.</p> <p>This matter is outside the scope of the Regulations, no further action can be taken on this submission in the Regulations.</p> <p>DJPR has noted this feedback and may consider whether further action is warranted in the context of any proposed changes to primary legislation or administration of the regulatory framework for minerals.</p>
<p>Requirement for work plans and work authorities (4)</p>	<p>Why are both work plans and work authorities required for extractives above a certain depth? Given extractives are owned privately above a specified depth, what regulatory purpose does the work authority serve given there is no royalty paid? A work plan and planning permit should be sufficient. In a risk-based framework the work authority does not serve any purpose.</p>	<p><b>Noted</b></p> <p>The department notes this feedback and may consider whether further action is warranted in the context of any proposed changes to primary legislation or administration of the regulatory framework.</p> <p>As these matters are outside the scope of the Regulations, no further action will be taken at the stage.</p>
<p>Overlap with <i>Environment Protection Act 1970</i> (EP Act) and the Environment</p>	<p>Quarries and all industry are governed by standards administered by the EPA. The outcomes must meet these requirements if they don't</p>	<p><b>Noted</b></p>

Issue (submission/s)	Comment / Issue raised	DJPR response
Protection Authority (EPA)  (5, 6)	<p>alternative measures must be implemented. The outcome is prescriptive, risk analysis does not come into it.</p> <p>The proposed regulations are potentially not effective since the mitigation of risks will be taken care of via EPA as a referral authority. The risk analysis is likely to bog down and confuse the process which will be clearly described via EPA if required.</p>	<p>There may be some areas of overlap between the harms regulated under EP Act and the MRSD Act, and with the regulatory activity of the department and the EPA.</p> <p>The department notes this feedback and may consider whether further action is warranted in the context of any proposed changes to primary legislation or administration of the regulatory framework.</p> <p>As these matters are outside the scope of the Regulations, no further action will be taken at this stage.</p>
Overlap with planning approval  (10)	<p>The regulation still includes major overlay and duplication with planning, without resolving the Work Authority Approval vs Planning Approval chicken and egg!! Part 11 particularly (a) "that considers community views expressed during consultation" and "sustainable".</p>	<p><b>Noted</b></p> <p>There may be some areas of overlap between work authority approval and planning approval.</p> <p>The department notes this feedback and may consider in the context of any proposed changes to primary legislation or administration of the regulatory framework.</p> <p>As these matters are outside the scope of the Regulations, no further action will be taken at this stage.</p>
Demonstrable need for Proposed regulations  (11)	<p>The ERR has not demonstrated a clear understanding of the mining industry, as many of the enforcement officers we encounter, and possibly the authors, appear have never worked in the mining industry. Often these persons do not have the professional qualifications or practical experience to match the personnel that they are dealing with.</p> <p>Contrary to the stated intention to reduce red tape, my professional experience is of the opposite, with an increased burden requiring the hiring of consultants to navigate through.</p>	<p><b>Noted</b></p> <p>Earth Resources Regulation is taking action to improve its regulatory practice in response to the report of the Commissioner for Better Regulation, Getting the Groundwork Right.</p>



Authorised by the Hon. Jaclyn Symes MP  
Department of Jobs, Precincts and Regions  
1 Spring Street Melbourne Victoria 3000  
Telephone (03) 9651 9999

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