



18 July 2011

The Executive Officer
Economic Development and Infrastructure Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Level 14, 55 Collins Street
Melbourne Victoria 3000
GPO Box 4379
Melbourne Victoria 3001
telephone (03) 9092 5800
facsimile (03) 9092 5845
email contact@vcec.vic.gov.au
web www.vcec.vic.gov.au



Dear Sir/ Madam

Inquiry into greenfields mineral exploration and project development in Victoria

The Victorian Competition and Efficiency Commission (VCEC) has received a letter from Mr Neale Burgess MP dated 23 June 2011 inviting it to make a submission to address one or more of the Committee's terms of reference for this inquiry. I am pleased to provide this response.

The VCEC has addressed issues specifically relating to the mining sector in two completed reports which it prepared for the Victorian Government, namely *Regulation and Regional Victoria: Challenges and Opportunities*, 2005, and *A Sustainable Future for Victoria: Getting Environmental Regulation Right*, 2009. The VCEC has also addressed broad regulatory issues, some of which are relevant to the inquiry, in its recent draft report, *Inquiry into Victoria's Regulatory Framework: Part 1 - Strengthening Foundations for the Next Decade*, 2011.

In *Regulation and Regional Victoria: Challenges and Opportunities*, the VCEC noted that under then current legislation, the *Mineral Resources Development Act 1990*, the Department of Primary Industries (DPI) must refer applications to several authorities for environmental approvals and permits before it may decide whether to grant work approvals for proposed mining. The VCEC also noted that some delays in granting approvals and permits must be expected and accordingly the Minister should extend time limits where appropriate in particular cases. Nonetheless, the VCEC was concerned by the extent of delays and recommended that the reasons for any extension of a statutory time limit must be published. It also recommended more detailed public reporting of the time taken for various stages of the approval process on the grounds that such reporting would encourage compliance with deadlines, highlight ways to improve the process and guide the allocation of agency resources. The then Government supported these recommendations.

In *A Sustainable Future for Victoria: Getting Environmental Regulation Right*, the VCEC repeated these recommendations and asserted there is scope to improve the regulation of mining by the following changes to the work plan approval processes:

- On behalf of work approval applicants, the DPI should coordinate with other relevant agencies regarding mining approvals, when requested to do so by applicants.
- The DPI should enter into memoranda of understanding with referral agencies (other than with DSE and WorkSafe Victoria, where memoranda already exist) to better coordinate and integrate their approval processes.
- The DPI should implement a comprehensive performance reporting framework for the mining and extractive industries. The framework would specify target timeframes for processing approvals, including those for referral agencies, and should measure performance against these targets.
- Once developed, DPI's reporting framework should be independently assessed, possibly by Victoria's Auditor-General.
- The definition of 'low impact exploration' should be clarified.

The VCEC also recommended that the *Environment Effects Act 1978* be amended to provide statutory guidance on the matters to be considered in deciding whether proposed projects, such as large-scale mining projects, are likely to have a significant impact on the environment and should therefore be referred to the minister, the assessment options available to the minister for different levels of impacts, and the processes to be followed in respect of each assessment option.

In addition, the VCEC recommended changes to the regulations affecting native vegetation that may affect mining. The thrust of the recommendations was to clarify that the objective of the regulations is to ensure no net loss in the quantity and quality of native vegetation as a result of approved clearing.

The then Government supported these recommendations, some in part.

The VCEC's recent draft report, *Inquiry into Victoria's Regulatory Framework: Part 1 – Strengthening Foundations for the Next Decade*, also addressed specific concerns on earth resources regulation, as well as broad regulatory issues, some of which are relevant to the inquiry as well as to regulation more generally in Victoria.

The draft report acknowledged receipt of submissions from two industry associations, which claimed that industry continues to perceive regulatory costs, delays and uncertainty to be major issues, despite implementation of some reforms previously recommended by the VCEC.

More generally, the draft recommendations aim to increase the strategic and ongoing contribution of the regulatory management system in Victoria by:

- establishing a single point of accountability for monitoring, improving, reporting and promoting the whole system as a key competitive strength for Victoria;
- building whole of Victorian Government attention to improving the performance of regulators;
- strengthening the impact assessment process to improve the design of regulation, better consult with affected parties and increase transparency;

- addressing some gaps in current arrangements, including improving the evaluation and implementation of regulation; and
- reducing the regulatory burden on business and the not-for-profit sectors.

Some progress has been made in the implementation of the VCEC's recommendations but further reforms are warranted. In its draft report, *Inquiry into Victoria's Regulatory Framework: Part 2 – Priorities for Regulatory Reform*, March 2011, the VCEC stated that a major theme emerging from the inquiry is that of slow and uncompleted reform. Despite many of the recommendations from the VCEC's inquiries being supported by the former Government, a substantial number have not been implemented.

I would be happy to meet with the Committee to expand on this response if you think that is likely to be useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Butlin', written in a cursive style.

Dr Matthew Butlin
Chair
Victorian Competition and Efficiency Commission

Ref: