

Submission to the Victorian Parliamentary Economic Development and Infrastructure

Inquiry into Greenfields Mineral Exploration and Project Development in Victoria.

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Our interest in the inquiry: affected landholder & adjoining landholder affected by the Act, members of the community affected by current exploration license, office bears in local environment group.

We respectfully request permission to speak to the inquiry panel, with the Chairperson's approval.

The options, views and information expressed in this document are current at time of writing. Given our community is currently in the process of organising its own information session to raise awareness our knowledge will grow and our views may change. The facts of what has happened to us to date however will not.

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Summary

1. The current regulations, assessment and approval process is bias in favour of mining companies,

Exploration license can be issued:

- without going through a local council planning process,
 - does not require a road permit to work on roads not identified as key arterials,
 - can remove vegetation without a detailed study of what is there for the area for exploration,
 - relevant water authority is not consulted as is required by other drilling activities
 - public is unable access the permit or work plans to view them or input into the process,
 - community and landholders, even those directly affected are not consulted nor do they have the ability in the process to input,
 - Department of Primary Industry is unresponsive to community members requests for information,
 - new 'verbal' landholder approval consent process opens the gate to abuse by those with financial interest in mining.
2. The current process and policies of the assessing Department are not in line with the stated and published commitments to the people of Victoria by the Premier.
 3. The lack of community consultation is not in line with the IAP2 (which the DPI states they use) and its underpinning core values (Appendix 3).
 4. The lack of process rigour allows for mining companies to advertise in papers which are not distributed or readily available to the area the activity is planned for and for this to be considered as community informing in the process.

5. Agricultural land and farming activities hold significant value. Local Planning should be included at all levels of the mining application to protect its value. This is supported by Peri Urban modelling as part of the Monograph 4 which show opportunity and benefit to Melbourne and communities for the preserving of agriculture land around Melbourne (social, economic and environmental) (Appendix 5). Peri Urban Climate Change investigations show the Bacchus Marsh regions as one of the few which will experience low impact increasing its importance for sustainable development and production of food moving forward (Appendix 6) and (Appendix 7) which are unlikely to be included as assessment parameters in a mining application, however provide insight in to the value of agricultural lands, high value from small farm enterprise, value of the equine industry and its potential.

Prelude

We submit to the inquiry on behalf of the Moorabool Environment Group with reference to my personal experience in relation contact with a Mining Company who hold a current exploration license and the Victorian Department of Primary Industry (DPI).

We respectfully request permission to speak to the inquiry, with the chairperson's approval.

We note the terms of reference set for this inquiry and address those areas within the realm of our experience. We have excluded the terms of reference for which we have no contribution to make at this stage. We believe the responses fit in to the area of possible barriers.

Inquiry term of reference - The regulatory environment;

While exposure to the regulation for Mining is limited, reading of the regulation finds significant weighting of rights towards the private industry, and little to no rights for land holders or affected communities. The regulation must allow for greater rights to landholders and must be absolutely followed.

A lack of balance was/is then thread through the policies, process, contacts and discussions with industry and the DPI. There is hindrance and delays to gaining accurate information as a member of the public, and interested party to an exploration license are already impacting the relationship formation.

Deb was personally advised by a DPI Earth resources staff member that "any contact or enquiry to do with the Bacchus Marsh area, from the community, had to go through the media person, Alex". She was inquiring to have a speaker to our local community (this was reasonable to direct to media) and to ask some questions about process and where to find information on the DPI website, which she is still waiting for advice on from media who have been nominated as the only contact for our community. She has just resent a request and asked if she would have to go through freedom of information to gain the information which she believe should be readily available, being a copy of the exploration permit issued by DPI for exploration of our area, and a

copy of the work plans which relate to the exploration – which the DPI website report advises have been approved.

By way of further example during a discussion with a Mining Exploration Manager and Deb Porter to facilitate a community awareness speaker attend our community she was told in relation to attending to provide information to the community “We have already done more than is required in our statutory requirements” This ‘more’ was the advertisement in a couple of local papers which do not get delivered to the area of exploration, and attendance at a Community Land Care meeting in which approximately 50 members of the community attended along with a local Member of Government, Councillors and government employees. We do not believe this constitutes full compliance with the MRSDA ‘duty to consult with the community’.

We are seriously concerned to read changes to consent requirements on the DPI Earth Resources Web site:

‘Amendments to the *Mineral Resources (Sustainable Development) Act 1990* introduce new provisions relating to the consent of landowners and occupiers for *low impact exploration*. The amendments were passed by Parliament in September 2010 and are due to come into operation by February 2012.’ Accessed 24/8/2011 <http://new.dpi.vic.gov.au/earth-resources/whats-new/mrstda-review-stage1/fsheet-consent-for-low-impact-exploration>

This allows for a verbal consent, to the licensee, as a means for access to land. This relies on the mining/exploration company, which is a private concern with responsibility to its shareholders, to maintain integrity. This is setting the scene for landholders word against a mining company employees word the imbalance of power in this relationship is directly opposed to sound relationship building, the ability to fund legal challenges seriously weighted on the industry side. Mr McDonald a Parwan landholder in the Mantle Mining exploration permit area advised his daughter: Mr Callum Lamont, Exploration Manager (coal) Mantle Mining called into visit the farm late, about 5 pm on the afternoon of Sunday the 25th June 2011. Mr McDonald lives and farms by himself and is 82 years of age. It is hoped neither the DPI nor the Mining Industry body would sanction a visit on a Sunday to a farmer to advise them of exploration drilling and engage in discussions with landholders without having another family member or friend of present, this is clearly recent concerning professional conduct.

We also reference the documented issues raised in the submission by community submitter Giles to the MRSDA Review which outlines numerous failings by the DPI and other government bodies (Appendix 2). This outlines numerous failings by government bodies charged with the responsibility to enforce the legislation in Giles experience.

This change is likely to see significant public opposition once it becomes more widely known, presenting a significant risk to any future project and damage the reputation of both the Parliament and the Department. Recent contact with a mining company has left us with no confidence this amendment would be applied with the integrity and honesty required to facilitate sound industry practice in this area.

The current regulatory environment will only work if there is compliance enforcement willing to take action against parties who breach it, only then will the regulatory requirements be taken seriously by the industry. There should also be the ability to strip a miner of licenses for a number of breaches or breaches deemed serious in nature (such as contamination of waterways, contamination of ground water, etc)

The buffer rule in the MRSDA needs to be reviewed and the buffer zone increased, and the buffer needs to be on the miners land and not on adjoining landholder. This is critical in light of current proposed developments in Victoria being close to schools, other workplaces, family businesses, sensitive native grasslands, homes, waterways, etc.

There currently exists inconsistencies across acts and regulations, this is also an issue other industries have tackled (and continue to). In saying this there is one fundamental condition to compliance working which is the integrity and honesty of the enforcers themselves (from all departments) guided by the integrity of the codes, policies and procedures which cascade from the legislation.

Inquiry term of reference - the success and failure of projects in Victoria's mining development pipeline;

A lack of community consultation at all levels in this area is a significant risk to projects and the government. Lack of transparency, failure to provide information on projects, poor enforcement of legislation and follow up all work against the success or projects and with rapid growth of this area these are likely be exacerbated if no immediate action is taken.

If mining companies wish to access and profit from the resources of the public then they should be mandated to consult with the public. Processes, documents, reporting data, enforcement data etc. should be readily accessible to the public for viewing. Those members of the public who are going to be directly affected and adjacent lands should be advised in writing of the application for license (including exploration licenses) and advised by the governing department of their rights and process for objection. The Tubbs family story (appendix 4) demonstrates current practice.

With reference to the Premiers commitments to the people of Victoria, nowhere in these did we find these are our commitments but they do not apply when there is mining involved. Please attached appendix 8 with reference to the Premier's commitments and comments on each.

Inquiry term of reference - the different roles of government (this may include, but is not limited to, targeted industry engagement, facilitation and generation of geological survey information);

We believe the inquiry should mandate community consultation at all stages of license/permits for mining. DPI nominates the rural community as a stakeholder (appendix 1) however the current process failing enables permits to be issued without sound community consultation.

Segregation of powers for the DPI which currently covers both Agriculture and Earth Resources with which there is a conflict of interest between these two areas and their respective mandates.

Transparency should be upheld by all government departments, and this should all so be applicable to the electronic access of information such as on departmental websites.

Inquiry term of reference - opportunities to increase the net benefits from Victoria's minerals and energy earth resources, and to potentially provide for self sufficiency in low cost energy and extractive materials, consistent with the principle of economic efficiency; and

The mining proposed in our area is for export to India and possibly China we have been informed via the mining company, it is not about securing energy resources for Victorians future and self sufficiency. While it may bring in a one off economic benefit, it is not renewable.

The Environmental Protection Act should be upheld.

Inquiry term of reference - consideration of the costs and benefits of Greenfields minerals exploration (economic, social and environmental), and whether there are opportunities to improve the management of potential conflicts between exploration and other land uses.

The use of Sustainable development principles: environment, society, and economy. Can only be successful if an unbiased approach is taken to the consideration, and the reliance is not only on government department knowledge for example the use of only the DSE held information as to the environmental values of a particular area from limited and time specific investigation. This is not a criticism of the DSE but a reference to the limitations, due often to funding, of the ability of the department to conduct ongoing data collection across areas of Victoria.

A holistic approach to the sustainability paradigm would see the environment, social impact and economic considerations weighted equally with clear guidelines to minimise poor interpretations and checking mechanism to enabling fairness and consistency, thus facilitating integrity of the approach.

With the current challenges faced by occupation of the earth it is reasonable to consider the key areas for consideration need be to ensure food, safe drinking water and clean air for communities, and that these key areas should not be considered of lesser value, at any level, nor a acceptable consequence of economic development.

Finally

We call for a moratorium on exploration until:

1. Review of process and implementation of improvements
2. Real community consultation is mandated prior to any permit or license is issued for Mining
3. Review of existing licenses
4. Local government planning and water authorities are incorporated into the process at the front end before any holes are dug.
5. Scientific evidence on the social and environmental impacts of existing and new technologies is reviewed and the public is made aware of the findings.
6. The legislative bias is corrected

Appendix

Appendix 1

Stakeholders of the DPI – from DPI overview

Our stakeholders

We work with energy companies, research partners, primary producers, mineral explorers and rural communities across Victoria, as well as other government departments, to address the major and emerging challenges in sustainability and productivity.



- Food and agriculture industries, producers and other businesses
- Commercial, recreational and cultural fishing, and aquaculture sectors
- Energy industry bodies, producers, and network and retail businesses
- National and international science organisations and partnerships
- Extractive, mineral, geothermal and petroleum industry bodies, explorers, producers and their agencies
- Commercial forestry industry bodies and producers
- Local, national and international consumer, environmental and business organisations
- Catchment, land and water managers
- Industry-based research and development corporations
- Animal welfare groups
- Local, state, territory and Commonwealth governments, agencies, authorities and organisations as investors in DPI projects

Appendix 2

Giles submission paper to DPI review

attached pdf

Appendix 3

IAP2 Core Values

As an international leader in public participation, IAP2 has developed the "IAP2 Core Values for Public Participation" for use in the development and implementation of public participation processes.

These core values were developed over a two year period with broad international input to identify those aspects of public participation which cross national, cultural, and religious boundaries.

The purpose of these core values is to help organisations, decision makers and practitioners make better decisions which reflect the interests and concerns of potentially affected people and entities.

1. The public should have a say in decisions about actions that could affect their lives.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

Accessed 23/8/2011 14.17hr: <http://www.iap2.org.au/resources/cid/1/parent/0/t/resources//layout>

Appendix 4

Tubbs Family Story

Our story

We received a phone call from Callum Lamont of Mantle Mining asking for our address so he could drop a letter in the box. My husband inquired what it was about and he said that there was a possibility that they would need our permission to drill on our land if Vic Roads wouldn't give them permission to drill on the road verge outside our fence. Mr Lamont was invited to come and tell us about it rather than just a letter box drop. That was the beginning of our becoming aware of the exploration tenement over our land and over 38,000 hectares of our community.

We own 254 acres, with 200 acres in crop with wheat and barley. The other 54 acres is a Harness Racing stable run by my husband and daughter who are both harness racing trainers and my daughter is a professional harness racing driver. We have a trainee and 2 other employees. Horses are very sensitive creatures and a flapping plastic bag on a fence post or a chaff bag standing in a different spot is enough to send them into a panic so the option of a drill site on our land or outside the fence just isn't an option. It is too dangerous when you have half a tonne of horse not co-operating, especially with young helpers employed.

Then we started talking to people around us and we found that no-one had any idea of the exploration overlay. No-one was pleased.

Through my association with Parwan LandCare group we organised a meeting of the landowners who were to be initially affected by the 15 borehole sites. For a small community we had over 60 very concerned people turn up, whose livelihoods depend on productive agricultural land, horse training and the lifestyle of a quiet rural community.

Disbelief, disappointment at the lack of consultation, anger at the prospect of what they want to do to our community, was evident and now we are trying our best to make sure Mantle Mining does not come into our lives.

By making people aware, we are doing what the mining company should have done in the first place. Instead of posting ads in the local paper that no-one has delivered in our area, we should have been told. Instead of us organising community meetings Mantle Mining should have done that before anything went ahead and became an exploration licence.

Our lives, our income, our land where we have planted thousands of trees on a blank paddock over the last 22 years and where we have raised our family should not suddenly become Mantle Mining's property!

Sincerely

The Tubbs family

Alan, Kate, Amy and Jess

Appendix 5

Peri Urban Monograph 4

pdf attached

Appendix 6

Climate Change and Melbourne's Peri-urban Region document

pdf attached.

Appendix 7

Peri-Urban biosecurity and small landholders

pdf attached.

Appendix 8

Premiers Commitments

pdf attached