

20th February, 2017

Mining Act Review Consultation Grower Meetings Summary Wudinna, Cummins, Maitland, Murray Bridge

Estimated number attended: 200

The key issues raised are highlighted below and some of the discussions that occurred around that issue. In brackets are the meetings where these issues were raised.

Issues raised

Mining Act review

- Why now and why such a rush? (*Wudinna, Cummins and Maitland*)
The Department of State Development (DSD) expressed that the whole Mining Act hasn't been reviewed since 1971, only parts have been opened up and amended in 2011. This is an opportunity to provide input into any amendments that DSD are preparing to put to Parliament. The discussion paper is not clear on what is being proposed, but does review sections of the Act and poses questions on how each section is currently working and how it could work better.
- DSD talk about streamlining and aiming for a competitive regulatory environment for mining companies. But where does this leave the rights of landowners?
- Is it linked to the Multiple Land Use Framework? (*Maitland*)
The MLUF prioritised mining activities and access over any other operations.
- While the review is being conducted does this halt mining activities? (Murray Bridge)
Response from DSD was no. Until the current Act is revoked, and the new Act enacted, all current regulations and requirements remain the same and work in DSD to grant mining exploration leases and mining leases continues.

Review Process and Submissions (*All 4 meetings*)

- Will the legislation go out for public consultation prior to going to Parliament? Will this be the only chance to make a submission? Unclear at this stage.
- Are the submissions public or private? Will be public, but can ask for part or all of a submission to be confidential.
- GPSA will be making a submission, but all growers at every meeting were urged to make a submission as well. All growers who need an extension to make their submission need to apply to DSD direct. GPSA has been granted an extension until 31st March, 2017.

Exempt Land (*All 4 meetings*)

- The issue of what is exempt land?
This is not clearly defined in the current Mining Act. A cultivated field is technically exempt land. The Warden's court defined cultivated field as any land in production either continually

cultivated or fallow as part of a crop rotation cycle. Grazing land isn't exempt land, but it should be.

- What does Exempt land mean? *(All 4 meetings)*
Exempt land should be exempt from mining. There was considerable concern and misunderstanding of what exempt land means and the rights landowners have. DSD explained that exempt land doesn't mean it is exempt from exploration or mining. It just means the mining company needs to get the waiver signed by the farmer to gain access to the land or the mining company can take the landowner to either the Warden's Court or to the Environment, Resources and Development (ERD) Court to gain access. The ERD court can then order the mining company to mitigate any adverse effects on the land by setting conditions and/or compensation. No court proceedings to date have come down in favour of the landowner, all have granted access to the mining company under certain conditions and with compensation.
- No mining below Goyder's line *(Wudinna, Cummins)*
To exclude all arable land, some called for no mining below Goyder's line.
On the other side, miners are calling for the power to compulsory acquire land.
- Section 9AA *(All 4 meetings)*
Call for the removal of section 9AA of the Act which enables a waiver to be granted to allow access to agricultural land. If farmer signs the waiver then there is no going back, all that can be negotiated then is conditions and compensation.

Exploration licences *(Wudinna, Cummins and Maitland)*

- Land owner should be notified directly if a tenement is granted over their land and if a mining exploration licence has been granted, and not left to read about it in the Notices in the local paper. Needs to be transparency in notifying where tenements and licences have been granted.
- When does an exploration lease expire? *(Maitland)*
Where does the landholder stand when a lease expires? What's to stop another company coming in to take over that lease? According to DSD the new company would have to apply for the lease and go through the same PEPR etc process.
Mining Leases are granted for 21 years, but then can be renewed for another 21 years and another, etc. ongoing into perpetuity. Farmers need certainty in an end date.

Program for Environmental Protection and Rehabilitation (PEPR) *(All 4 meetings)*

- When will the PEPR's be available for the landowner to review? The PEPR sets out the proposed works and subsequent rehabilitation program, so how can a farmer agree to a waiver if they don't know exactly what is being proposed and where on their property. It is in the PEPR, but mining company only provides that to DSD not the landowner. Should be more transparency in the PEPR's and in access to the PEPR's.
- The PEPR should accompany the Notice of Entry.

Land Access *(All 4 meetings)*

- Farmers need more information before they can grant land access, information like the PEPR.
- The serving of a 21 day notice of entry is the first indication most farmers have that a mining company wants to come and explore on their land. The feeling at all 4 meetings was that 21 days' notice is not enough time for a farmer to seek information or legal advice, especially given they are out in the regions with often limited internet access. Nor is it enough time to even engage or negotiate with the mining company. This timeframe should be extended, even 21 business days would be better than 21 calendar days. The Murray Bridge meeting felt that it should be double that at the very least.
- It needs to be mandated that discussions need to occur very early on, between the mining company, landowners and the community. Not when a notice of entry is served.

Compliance (*Wudinna, Cummins and Maitland*)

- Where is the compliance? There are miners out there now coming on to farms without the farmers consent. Many reports of this occurring. Without the farmer having access to the PEPR, how can they report when a miner is doing the wrong thing, or accessing areas they shouldn't?
DSD is the regulator and has access to the PEPR, but the farmer and community don't, so unless DSD is actually out at every exploration or mine site when the miners are accessing the land, how can the DSD or the farmer be sure that the company is complying with the PEPR?
- Compliance reports and infringements need to be made public – name and shame bad operators.
- What about site inductions before mining company allowed on the land? Who would police it?

Royalties (*Wudinna, Cummins, Murray Bridge*)

- If the minerals are owned by the Crown then the mining company is the agent of the Government. The Government earns revenue via royalties. Why aren't their different royalty rates i.e. a higher royalty for arable land and a lower royalty for non-arable land to ensure the State gets greater compensation from losing the productive arable land from production and also that the royalty goes back in some way to the local community? Government seems to be doing the opposite, with the current 5 year waiver on paying any royalties for new mines.

Impact Assessments (*Wudinna, Murray Bridge*)

- As part of the approvals process, a mining impact assessment has to be conducted to show how it will impact on land use. Any issues raised need to be addressed as part of the lease conditions.
- So how come a social impact assessment is not also conducted, not on the jobs created or dollars generated, but the personal impacts and harm that individual landowners are faced with? This should also be acknowledged.
- Impact on our grain and livestock products reputations should also be considered. If we market under the banner of premium food and wine from our clean environment then how can we allow mining on farming land? What about contamination from dust, chemicals, ground water etc. and the impact that could have on grain and livestock products? Could lose market access.
- What about effects on tourists/tourism for those areas where businesses make considerable income from tourists visiting the area?
- Farm, local farm supplier businesses and community impact statements should also be considered.
- Look at triple bottom line impact, not just return on investment from mine going ahead.

Compensation (*All 4 meetings*)

- The threat of a mine can also impact on businesses and can cause land to be devalued, even before the mine starts. How or is this compensated for? What about long term damage to the property, is this included in the compensation?
- Compensation appears restricted to the immediate damage to the property, what about long term devaluation? What about long term loss of productivity, not just when the exploration is occurring etc.?
- What about tourism impacts? (*Murray Bridge*)
- What about other service industries? (*Wudinna*)
Does this review also consider the impact of mining on businesses that provide a service to farmers, such as agronomists, seed and chemical suppliers, traders etc.? If more mining exploration gets approved and potentially more mines, then this will reduce the number of farms in an area. This will have a negative impact on those businesses that service those farms.

The impact on these businesses is not considered when determining access conditions or compensation. Should they?

- Infrastructure corridors and impacts on neighbours (*Wudinna, Cummins*)
Consideration needs to be taken of the land required for the infrastructure corridor to get the mineral to the port and also the neighbouring properties that are affected along the corridor and next to the mine. Not just the land directly mined.
Should the community get some return from the mining company using existing infrastructure? It's a saving for the miner as they don't need to build that infrastructure from scratch, but it also means additional maintenance of that infrastructure. Who pays for that? Should the mining company have to pay something back to the community for the use of that infrastructure?
- Compensation towards legal costs in the current Act are too low (\$500). Need to be much higher and should be paid by the mining company upfront as soon as negotiations start for land access.
- Compensation in terms of a percentage of the royalty? (*Murray Bridge*)
Should we follow the US example and allow farmers to be paid the royalty or a percentage of it? In the US the royalty paid to the landowner can be as much as 25%.
- Should royalties be higher on prime agricultural land and lower for less arable land? (*Wudinna, Cummins and Murray Bridge*)

Exploration timeframes (*All 4 meetings*)

- At both the exploration phase and the mining phase, there needs to be an end date. Exploration should not be allowed to go on indefinitely. Farmers need an end date, so the threat of a mine is not hanging over them for years and years to come. Farmers can't plan for the future of their farm/home/business if their land is under threat of being turned into a mine. Farmers need the certainty that an end date would provide. This would also ensure that the mining company moves on its intent to explore or mine as they won't have the ability to be able to delay the process indefinitely or will lose their right to access.

DSD – regulator and promoter (*All 4 meetings*)

- The issue of whether DSD should be conducting the review into the Act and also their role as regulator of mining operations and promoter of mining operations was raised at all 4 meetings. DSD argued that their regulation section is in a separate area of the Department from their investment attraction section.
- Review should be done independently of the Department.
- Should there be an independent regulator on mining, not DSD. Like the EPA?
- Should there be a mining ombudsman?

Bond/Extractive Minerals Rehabilitation fund (*Wudinna, Murray Bridge*)

- How does this work and how can Government ensure that there are sufficient funds in the bond to rehabilitate the land after the mine has finished, especially for those companies that go broke in the process?
- Progressive rehabilitation is supposed to occur, but what about those companies that are 'fly-by-night'? How can the Government ensure that another Brukunga doesn't occur and that the taxpayer isn't left cleaning up after the mining company disappears?
- Can the bond be used for neighbours that have been affected either by the mine or by the infrastructure corridor?

Native Title (*Wudinna*)

- The Native Title act recognises cultural connection with the land over a period of time. This is covered by Commonwealth legislation, and a Native Title agreement needs to be negotiated before a mining lease is granted.

NRM Act (*Murray Bridge*)

- How does the current Mining Act interact with the NRM Act? Which Act has precedence?

Advocate for farmers (*Wudinna, Cummins, and Murray Bridge*)

- Farmers need an independent advocate to go to for information and assistance. DSD can provide the information but are not seen as independent. Farmers feel immediate pressure and stress when faced with a 21 day notice. Who can they go to for advice on their rights without having to start to pay the legal fees? The farmer already has a full time job farming, how does he find the time to learn about his rights? Farmers should not negotiate with mining company on their own, need advice and an advocate.
- Need for an independent Mining ombudsman.