

# Statement of Operating Change

## Our New Approach to Earth Resources Regulation

### No. 1 – May 2018

We are committed to improving the way that we regulate earth resources operations.

Our intent is to make it clearer and quicker for you to seek approval to produce quarry, mineral and other earth resources, while fulfilling your statutory obligations. We also intend to provide greater confidence for communities about the safeguards in place to protect the public and the environment.

As a first step, we are publicly stating our commitment to implement the actions approved by the Victorian Government in response to the Commissioner for Better Regulation's recommendations in *Getting the Groundwork Right - Better Regulation of Mines and Quarries*.

The Victorian Government has allocated \$12.7 million over the next two years in the 2018-19 State Budget for this purpose and has endorsed a detailed Implementation Plan.

This Plan includes actions to enable clearer, coordinated and timely regulatory decisions covering three key areas:

1. Simplifying and streamlining the approvals process by providing:
  - improved guidance on application requirements,
  - clear performance standards, such as for dust, noise, vibration and general stability; and
  - standard risk management plans that 'pre-approve' specified controls for relevant hazards, thereby eliminating the need for lengthy and costly assessments; and
  - clearer guidance for operators who decide to prepare their own tailored risk management plans to comply with work plan requirements,
2. Implementing improvements to the regulatory system, and
3. Boosting our technical capability and capacity to assess applications and conduct compliance.

One of the Commissioner's recommendations is for us to issue a Statement of Operating Change to explain the way that we will assess variations to work plans. We will provide this explanation and associated documentation in stages as the new arrangements are developed, with your input, and put in place.

This first statement sets out the principles that we will follow and what you can expect from us as a modern, proportionate and robust regulator for the earth resources sector. It also provides initial guidance about the transition to modern work plans and the option to consolidate work plans.

We will keep you informed about the changes being made to improve earth resources regulation through further statements and guidance material. In doing so, we will continue to consult industry associations and other government agencies to inform the improvements we are making.

In the interim, you can access a copy of the Implementation Plan at <http://earthresources.vic.gov.au/earth-resources-regulation/continuous-improvement-project/implementation-plan> >.

**Anthony Hurst**  
**Executive Director, Earth Resources Regulation**

## Our Approach to Regulation – Key Principles

We are moving towards a better regulatory system – one that focuses on outcomes that minimises costs to businesses, meets community expectations and supports government objectives. The regulatory system will be modern, proportionate and robust.

We will:

1. **Get the ground work right** by progressively implementing the actions approved by the Victorian Government in response to the Commissioner for Better Regulation's recommendations in *Getting the Groundwork Right - Better Regulation of Mines and Quarries*.
2. **Apply a proportionate approach in regulating sites by focusing on what matters the most** to eliminate or minimise risks to people, the environment and infrastructure ('receptors').
3. **Build confidence in the regulatory system** by developing clear approvals guidelines and assessment steps for our staff, referral authorities and industry, so each application is considered consistently and the process is understandable.
4. **Target regulatory intervention** to address assessed risks and incentivise behaviours to protect identified receptors by aligning our compliance strategy.
5. **Address risks consistently:** we have reviewed the risk assessment framework and are documenting clear standards and approaches to assess risk to address risk across comparable quarry and mine sites. We are developing guidelines to enable industry to apply minimum standard controls for standard and specific risks.
6. **Work cooperatively with industry** through proactive engagement on the improvements being designed. We are establishing clear processes and guidelines, such as when a work plan variation is triggered, that will enable industry to get on with business while protecting public safety and the environment.
7. **Simplify the regulatory requirements and processes** to apply to undertake or vary the work you do. We are streamlining and simplifying the approvals process and improving guidance on application requirements.
8. **Help you make simple administrative changes or modernise your work plans** so that you can be more flexible in adjusting your operations to meet your operational requirements, while continuing to be compliant with the regulations. We understand time is money and we don't want to burden you with complex approval processes when simpler ones are more appropriate. We are developing processes to enable simple changes to work plans to be updated and modernised, where variations are not triggered.

**We are committed to these principles. We are here to work with you as we move to a modern, proportionate and robust regulatory system.**

# Clarifying our Role as a Regulator

We are working to deliver best practice regulation of the earth resources sector. Our aim is to enable businesses to have efficient and effective access to earth resources while fulfilling acceptable public safety and environmental standards.

Our functions are to provide:

- timely and clear authorisation process for earth resources exploration, production and other activities, and
- regulate earth resource operations to protect the public and the environment.

We will do this through modern regulatory practices that are timely, lower the cost of doing business, enable productivity, and provide confidence in environment and community outcomes. We fulfil this purpose in partnership with referral authorities, industry and other stakeholders.

## Matters raised by industry

The following initial guidance is provided to give you greater clarity and certainty about how we regulate, in line with our commitment to change how we will operate in the future.

### 1. Work plans lodged or approved before 8 December 2015 are not required to transition to a 'modern' work plan

Work Authority holders and licensees with work plans and variations approved or lodged prior to 8 December 2015 are not required under the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) to 'transition' to a risk-based work plan that complies with the relevant regulations.

A modern work plan refers to the requirements specified for a work plan in the MRSDA and the Regulations that commenced on 8 December 2015.

A modern work plan is:

- short, clear and written in plain English;
- fit for purpose, meeting the requirements of the MRSDA and Regulations and the needs of the business;
- understandable by all users, including co-regulators;
- detailed enough to describe operations and risks;
- focussed on how risks will be managed; and
- reflects current and planned operational circumstances.

A modern work plan includes:

- an overall description of the site and planned site operation – this is clearly written to accurately describe the key features of the operation, while enabling minor on-ground changes consistent within that description without further approval;
- a risk management plan – this describes the identified quarrying hazards and your planned control measures and monitoring and reporting program;
- a community engagement (or consultation) plan; and
- a site rehabilitation plan.

There is no requirement to transition an old work plan to a modern one. However, modernising your work plan would enable any future application for variation to be dealt with more simply, and should streamline the consultation process with referral authorities. Modernisation will *in most cases* make a change to the work plan that is purely 'administrative' (i.e. will not trigger a statutory variation) and will not have implications for existing planning approvals or referrals.

## **2. Consolidation of work plans and variations**

Many work authority holders and licensees have work plans with variations that have not been consolidated into a single document.

We are developing a process to simplify work plans via an administrative process by consolidating relevant work plan content and all variations into a single document.

This administrative process will involve consultation with work authority holders and licensees as required. Consolidation will not change any regulatory requirements on operators or cause existing rights to be amended or revoked.

Consolidation of work plans will not involve a statutory approval process or consultation with the relevant municipal council or co-regulators (referral authorities). However, we may require the operator to submit a work plan variation, if any new or changed hazards or risks that have not been adequately addressed are identified during the consolidation process.

There is no fee payable to us for the consolidation of a work plan, where no variation is required.

Once accepted by us, the consolidated work plan forms the one single document incorporating all approved works that may be carried out on a site.

## **3. Assistance to consolidate or modernise work plans**

We will help consolidate work plans.

- Consolidating a work plan means taking work plans approved before 8 December 2015 and identifying the current components that define the scope of the current work authority or licence.
- We will approach and engage with selected work authority holders and licensees to consolidate work plans where there have been multiple changes to a work plan over time and the work plan contains information that is ancillary or not current. This will include providing an index to the work plan and bringing to the front of the work plan all the current arrangements that apply on the site. Any ancillary information will then form attachments to the work plan.
- There will be no charge for this consolidation service and the changes made to the work plan will be purely administrative and will not require a variation or referrals.

We will assist when you volunteer to modernise your work plan.

- Modernising a work plan involves including the key parts now required in a new work plan, which are a hazard assessment and a risk management plan.
- Modernising a work plan can also include removing information that is no longer required within a work plan and lengthy detailed description of proposed work.
- A modernised work plan can be approved by us without further consultation with a council or referral agencies, because there are no changes that would trigger a work plan variation.

## **4. Consolidation as a first step to moving toward a modern work plan**

If your work plan has varied over time, we recommend consolidation as a first step to moving toward a modern work plan. Simplification (through consolidation into one document) can be a useful first step if you intend to modernise your work plan in the future. This is because the administrative process will clarify the most relevant components of your work plan and enable you to quickly identify and focus on issues that will be the most important for your attention.

We are developing processes and tools to deliver work plan consolidations. We will work with you to consolidate your work plans for no fee. Further guidance on these will be provided shortly.

## Next steps

Our next Statements of Operating Change will provide clear guidance to you about:

- when a work plan variation is triggered,
- when an authority holder would be directed to submit a work plan variation,
- when a work plan or work plan variation may be returned for changes or refused, and
- how 'significant increases to risk' is defined for work plan variations.

Separate statements will be issued for extractives and minerals operations to address the specific legislative requirements for each sector:

- Extractives Statement of Operating Change (work plan variations) will be issued by 30 June 2018
- Minerals Statement of Operating Change (work plan variations) will be issued by 31 July 2018.

We are also working to improve our future communication practices by:

- engaging an Industry Liaison Officer to focus on resolving stakeholder queries, including those about regulatory approval processes,
- establishing a new issues resolution function, which will include an informal process within Earth Resources Regulation with the option to refer the issue to external parties for resolution of complex matters, and
- developing a formal complaints and disputes resolution process.

## For more information

You are welcome to contact us via: [ERRFeedback@ecodev.vic.gov.au](mailto:ERRFeedback@ecodev.vic.gov.au)