

# Earth Resources Regulation

## Statements of Operating Practice Update

### Message from Anthony Hurst Executive Director, Earth Resources Regulation

Earth Resources Regulation is continuing to implement changes to improve the way we regulate earth resources projects.

In 2018, we released three Statements of Operating Change in which we committed to adopt an outcomes-based and proportionate approach to regulation. We also set out how we were streamlining regulatory approvals for work plans and work plan variations and introduced the new notifications pathway for operators to make work changes with low-medium risks.

We then released detailed guidelines in late 2018 which were drafted in consultation with industry and co-regulators. The guidelines assist industry to prepare work plans and work plan variations.

The purpose of this update is to set out where current practice has been updated from that foreshadowed in the initial Statements of Operation Change for minerals and extractives.

The guidelines will continue to be reviewed based on practical experience and feedback from industry, co-regulators and the wider community.

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

## Updates to our Operating Practice for Minerals and Extractives

### 1. Notification Pathway now accessible when changed or new work has a residual risk of medium or less

We developed detailed guidelines to assist industry with the work plan approvals process, which were released in December 2018 and January 2019 for extractives and minerals, respectively.

The guidelines expanded the notification pathway from that set out in the Statements of Operating Change and specified a different level of risk that will trigger a variation. The initial Statements of Operating Change required the proposed new or changed work to have a low risk rating to be a notification. The guidelines increased the risk rating so that medium risk scope changes could be considered for notification and assessed using the risk matrix in the guidelines. This change is in line with the commitment that we made to expand the notification pathway after Earth Resources Regulation's guidance material and example controls were put in place.

The case studies and examples provided in the previous statements no longer reflect current practice, as a result of expanding the remit of the notification pathway. Please refer to the published guidelines for the official position on how notifications will be accepted. These guidelines are available [here](#).

### 2. Pre-Submission Consultation Requirements – Notifications

Quarry and mine operators need to first consult their local council and other relevant agencies and regulators, if they are seeking to use the notification pathway. Earth Resources Regulation cannot accept a notification that is contrary to requirements of co-regulators.

#### *Consultation with Council*

Operators need to consult with council to confirm that a variation to the planning permit is not required for the new or changing work. Written confirmation from council that no change to the planning permit is required needs to be provided to Earth Resources Regulation with the notification submission.

#### *Consultation with other agencies and regulators*

Before submitting a notification, operators should also consult with other agencies and regulators regarding the new or changing work if it is within their jurisdiction. These other agencies and regulators could include catchment management authorities, the EPA, the Department of Environment, Land, Water and Planning and other government departments.

Operators should provide written confirmation to Earth Resources Regulation from the relevant agencies and/or regulators that the new or changing work meets their regulatory requirements.

### **3. More Information on the use of the Notifications Pathway**

Proposed work changes on any specific mine or quarry site need to be considered taking account of the level of risk after applying controls, rather than based on a 'one size fits all' list.

Assessing whether a change is low, medium or high risk is dependent on a range of factors, such as impact on sensitive receptors. A low-medium risk on one site might present a high risk on another site.

Earth Resources Regulation will continue to publish examples of how quarry and mine operators have used the notifications pathway to make changes at their sites, with the aim to assist other operators to consider whether they need to apply for a work plan variation or make a notification.