

Response to the South Australian Productivity Commission Extractive Industry Supply Chain Review

November 2020



Government
of South Australia

Foreword

The South Australian Government's Growth State plan seeks to grow our economy at an annual rate of 3%.

To achieve this target a range of industries will need to grow significantly beyond their current trajectory supported by collaborative partnerships with government to leverage our state's competitive advantages

The South Australian Government's Energy and Mining Strategy identifies an opportunity to further support collaboration between the construction, infrastructure and extractives industries.

The South Australian Government is investing \$12.9 billion in infrastructure spending over the next four years, providing valuable community assets, driving economic growth and delivering jobs for South Australians.

Underpinning state infrastructure and building projects is the extractives industry, which provides vital construction and heavy construction materials. It enables the building of our roads, hospitals and schools, and supports South Australia's construction industry, a significant employer and contributor to our state.

A key role for government is to further support these industries by establishing and maintaining a competitive business environment. Given the significance of infrastructure investment and the extractives industry supply chain for the state, I tasked the South Australian Productivity Commission (the Commission) with evaluating and reviewing the efficiency and effectiveness of our regulation, policies and practices and identifying reform options to improve the efficiency of regulation on the extractives industry.

The Commission has now completed its review and I am pleased to report that the government has accepted all 15 recommendations, the majority in full, with seven partially supported.

Many of the Commission's recommendations reaffirm the direction of reforms already underway, including the modernisation of our exploration and mining laws to bring them into the 21st century, introduction of planning and explosives regulation reforms, and transport initiatives.

I am confident that implementing the Commission's recommendations will build on these initiatives by further improving assessment and approval timeframes, removing existing regulatory barriers, and supporting the state's competitive advantage of having significant quarries located within the Greater Adelaide area.

I thank the Commission, Dr Matthew Butlin and Professor Christopher Findlay for the comprehensive and carefully considered report that has been provided, and for the extensive consultation that was undertaken with the extractives sector, government agencies and other stakeholders.

I look forward to the benefits that will flow to government, the extractives industry and the broader community as we implement the recommended changes.

Hon Steven Marshall MP
Premier of South Australia

Introduction

The Commission was asked to undertake a review of the extractives industry supply chain in South Australia to:

- evaluate and report on the current regulatory framework for quarry and extractive industry development in South Australia
- make recommendations for improving the supply of extractives-based inputs into state infrastructure and construction projects; and
- consider regulatory and non-regulatory options to create a more competitive environment by removing barriers and creating efficiencies in regulatory process.

In response to this request, the Commission delivered the *Extractives Industry Supply Chain Review Final Report* (the Final Report), which sets out the Commission's understanding of the issues affecting state and local government regulation, policies and practice for the extractives supply chain and makes 15 recommendations to improve the effectiveness and efficiency of those arrangements.

Overall, the Commission found that significant improvements and efficiencies can be achieved by:

- improving regulatory guidance material, in consultation with industry, to improve compliance and reduce unnecessary red tape
- strengthening and streamlining approval and assessment processes to minimise rework, provide greater transparency and accountability, and create improved alignment between approval timeframes and tendering opportunities for state infrastructure projects
- re-assessing quarry product pre-qualification processes to enable regional businesses to make low risk quarry investments to supply competitive construction materials in close proximity to regional projects
- formalising referral arrangements between regulators to clarify areas of responsibility and better align mutual standards, providing a more uniform and consistent

interaction with industry and improving the performance of the regulatory system, while retaining the statutory mandate of co-regulators

- modifying road network access for transporting extractive materials to specified infrastructure projects to support project efficiencies, decrease costs and create employment opportunities for regional road and other projects requiring extractives inputs
- maximising the use of more efficient heavy vehicles to provide productivity gains in relation to the transportation of extractive materials, which requires the identification of first and last mile access locations, State Planning Policy and current transport related Planning and Design Code overlay issues, and consultation with stakeholders
- reforming explosives regulation, through a process of industry engagement and consultation on associated policy and administrative reforms
- managing current and future proximity issues by further considering the application of resource protection zones and overlays to protect metropolitan strategic resource areas, and address frictions that arise as a result of urban encroachment
- incorporating review triggers in lease conditions and/or environmental program criteria for quarry closure and post-completion land use that will result in a review of expected final land forms and associated rehabilitation requirements leading to a holistic, integrated and progressive approach to the quarry planning and design process; and
- reviewing the extractives financial indemnification model to increase transparency and accountability for funding arrangements, and promote a shared understanding between regulators and the extractives industry on the purpose and application of the model.

The government's response to the Commission's recommendations is provided in the next section, including high-level action plans.

Government response

The Commission's recommendations to government below are re-printed verbatim from the Commission's Final Report.

It is noted that completion dates are in calendar year.

Recommendation 4.1: Regulatory guidance for industry To promote transparency, improve compliance and reduce unnecessary red tape the Department for Energy and Mining (DEM), in consultation with industry and government stakeholders will:	
4.1.1: Simplify, update and streamline DEM's regulatory and process-related guidance material and information for quarry operators applicable to obtaining a mineral claim, extractive mineral lease and program for environment protection and rehabilitation/mine operations plan (MOP) under the <i>Mining Act 1971</i>.	Supported
Response The government supports updating, simplifying and streamlining regulatory and process-related guidance material for the extractives sector.	
Implementation plan In association with the 2020 mining regulation reform process, DEM is currently reviewing and updating its regulatory guidance material, including regulatory guidelines, information sheets, ministerial determinations, forms and website information. A key focus of this work is to ensure that guidance material is up to date, fit for purpose and uses plain English. DEM will revise regulatory guidelines and information to incorporate changes associated with the revised <i>Mining Act 1971</i> and regulations, which come into force on 1 January 2021. Of relevance to the extractives industry, the following guidelines will be updated in consultation with industry and government stakeholders: <ul style="list-style-type: none"> • <i>MG12 - Guidelines for miners: preparation of a mine operations plan (MOP)</i> • <i>MG6 – Guidelines for miners: preparation of a program for environment protection and rehabilitation for extractive mineral operations in South Australia</i> • <i>MG23 - Preparation of a mining proposal and program for environment protection and rehabilitation for quarries in South Australia with defined impacts</i> A new guideline will also be developed to support the extractive mineral lease application process.	Complete by Q3 2021

<p>4.1.2: Identify and publish links on DEM website to co-regulator legislation, regulation and guidance material applicable to extractive materials supply chain activity not covered by the <i>Mining Act 1971</i>.</p> <p>4.1.3: Support the one-door-to-government model and facilitate ease of access for industry by identifying gaps in existing guidance material and locating all DEM documentation and co-regulator links on an updated single 'extractive minerals supply chain' web page.</p>	Supported
<p>Response</p> <p>The government sees merit in having all relevant guidance material and information for the extractives sector in one online location, and supports the one window to government idea.</p>	
<p>Implementation plan</p> <p>In consultation with co-regulators, DEM will update the current extractive minerals webpage to consolidate information, simplify access and ensure that appropriate co-regulator linkages are embedded.</p>	Complete by Q2 2021
<p>4.1.4: Communicate the changes widely to industry, quarry operators, the wider extractive minerals supply chain, and relevant government agencies.</p>	Supported
<p>Response</p> <p>The government is committed to informing industry, quarry operators and the wider extractive minerals supply chain on the development of updated guidelines and, with DEM as the lead agency, will achieve this with relevant government departments.</p>	
<p>Implementation plan</p> <p>DEM will create a communications plan to guide consultation on the guidelines.</p> <p>DEM, in conjunction with co-regulators, will inform industry and community stakeholders about the updates to the extractive minerals webpage.</p>	Complete by Q3 2021
<p>Recommendation 4.2: Pre-lodgement review</p> <p>To support efficiencies in the quarry assessment process, minimise rework and provide greater transparency and accountability, DEM to establish an optional pre-lodgement process for quarry EML, programs for environment protection and rehabilitation (PEPR) and MOP applications modelled on the arrangements for fast-track pre-lodgement approvals in the state planning system, noting, among other requirements, the need for:</p>	
<p>4.2.1: Early and reliable identification of critical issues by DEM and referral authorities at the start of the process.</p> <p>4.2.2: The response to 4.2.2 is set out below.</p> <p>4.2.3: The response to 4.2.3 is set out below.</p> <p>4.2.4: Proportionality in the requirements identified in the pre-lodgement meeting. The extent of a pre-lodgement process may be minimal for low-risk, simple applications or comprehensive and involve co-regulators where complex. The size of the pre-lodgement undertaking to be determined mutually between proponent and DEM.</p>	Supported

Response

In response to the need for greater efficiency and transparency, the government is incorporating a scoping process akin to a pre-lodgement review into the draft mining regulations, as part of DEM's mining regulations reform process. This will provide proponents with the opportunity to undertake a self-assessment of their quarrying proposal, prior to lodging their application. Government will participate in the review of the proponent's assessment.

Benefits to industry and government include:

- orientating the approach to be proponent-led and collaborative in nature
- ensuring project assessments are commensurate with the level of environmental and social impacts after taking into account the project type, scale, duration and sensitivity of the location of the proposed mining and ancillary operations (if any)
- providing applicants with greater certainty with respect to DEM's and co-regulators' expectations as to the technical scope of works related to potential environmental and social impacts
- encouraging early engagement with the community to understand concerns
- minimising the need for further requests for information by providing clarity and a shared understanding at an early stage of the technical requirements
- enabling the early identification of projects that cannot proceed owing to insurmountable or high risk issues; and
- creating the opportunity to set agreed assessment timeframes.

To take into account the need for proportionality and scalability, the scoping process is discretionary so that it may be applied where appropriate. Where scoping is not appropriate, because the operation is low risk or has low sensitivities, the expansion of the defined impact template assessment process is expected to provide for more effective and efficient regulation.

Implementation plan

If approved, new mining regulations, which are set to commence on 1 January 2021, will introduce the scoping option.

Individual proponents will have the ability to approach DEM from 1 January 2021 to undertake a scoping process. However, a formal scoping process will not commence until later in 2021.

This reflects the fact that scoping is a new process and will allow for comprehensive guidance material and leading practice to be drafted. The development of these materials will involve engagement with industry in Q4 2021, and will also be informed by feedback obtained from consultation on the draft mining regulations, jurisdictional comparisons and benchmarking reviews.

It is intended that the guidance material will outline how to prepare a scoping report, confirm thresholds and considerations for undertaking scoping, and provide general information on expected interactions and timelines.

Complete by
Q4 2021

4.2.2: A standard of no more than one further request for information.	Partially Supported
<p>Response</p> <p>The government supports streamlining the interaction between government and the proponent to ensure efficiency and cost-effectiveness.</p> <p>Responses for further requests will be limited to dealing with gaps in information and clarifications affecting application assessments.</p>	
<p>Implementation plan</p> <p>It is expected that further reductions in multiple information requests can be achieved by providing clarity to proponents at an early stage about the key issues and information requirements that will need to be addressed at the assessment stage (unless there is a fundamental change in circumstances).</p> <p>Initiatives that will assist with this include:</p> <ul style="list-style-type: none"> • the simplification and co-location of extractives guidance material (see response to recommendation 4.1) • the introduction of a scoping option, involving referral agencies (see response to recommendation 4.2.1) • broadening the application of the defined impact template assessment process (see response to recommendation 4.3) • the development of a guideline which provides for regulator-approved criteria wording, similar to the MG30: <i>Development of environmental outcomes for quarrying and mining guidance material</i> • a review of formal administrative arrangements between co-regulators, with a focus on improving regulatory efficiency and aligning co-regulator standards (see responses to recommendations 4.4, 5.1 and 5.2). 	<p>Complete by Various – refer to responses for recommendations 4.1, 4.2.1, 4.4, 5.1 and 5.2.</p>
4.2.3: Timeframes for assessment and response to be met by DEM and referral authorities.	Partially Supported
<p>Response</p> <p>Please see response to Recommendation 4.5.</p> <p>It is noted that the timeframe for assessment cannot be mandated as it is dependent on the complexity of the impact assessment and the information provided by the applicant. The quality of information can be greatly influenced by the capability and capacity of a proponent, and because of the diversity of operators this varies widely across the extractives industry. As such, only referral timeframes are currently specified.</p>	
<p>Implementation plan</p> <p>The DEM-Environment Protection Authority (EPA) administrative arrangement currently specifies a standard referral timeframe of 20 business days. However, this does not apply where there are unavoidable complexities.</p> <p>DEM will work with other referral authorities to set similar referral standards in reviewing administrative arrangements.</p> <p>Regarding extractive specific target timeframes please refer to recommendation 4.5.</p>	<p>Complete by Q1 2022</p>

4.2.5: DEM to ensure the pre-lodgement review is advertised on its website and is widely communicated to industry in South Australia.	Supported
Response <p>The government supports this recommendation, noting that the draft mining regulations introduce a scoping process (as described above in 4.2.1).</p>	
Implementation plan <p>DEM will provide information on the pre-lodgement-related processes on its website and ensure that it is widely communicated to industry.</p>	Complete by <p>Q1 2021 revised <i>Mining Act 1971</i> commences</p> <p>Q4 2021 development of scoping process guidance material</p>
4.2.6: The performance of the pre-lodgement review process to be measured and reported on to determine the extent of net benefit over time, identify opportunities for improvements, and establish appropriate performance targets. Performance measurement to include measuring and comparing the time taken for the applications with and without pre-lodgement review, and measurement and analysis of total time taken to obtain final approvals (inclusive of time taken with applicants as well as regulators, and time taken for all regulatory processes and activities).	Supported
Response <p>The government supports initiatives which assist to establish appropriate performance targets, measure performance, determine the extent of the net benefit over time, and identify opportunities for improvement.</p>	
Implementation plan <p>DEM will investigate options to create a pre-lodgement/related process, internal system tracking module and opportunities to align end to end timeframes for lease applications.</p>	Complete by <p>Q4 2021</p>
Recommendation 4.3: Develop and broaden the application of the defined impact template assessment process To reduce timeframes associated with defined impact template applications and PEPRs, DEM to develop a specific assessment process for defined impact template assessments.	Supported
Response <p>The government recognises that defined impact templates provide greater efficiencies for proponents by establishing environmental outcomes and measurement criteria that must be adopted for applications and operating approvals for a defined scope of operations and potential impacts. As such, it supports broadening the scope of the operations that could be included in defined impact template applications to the extent that potential impacts could reasonably be identified by government without the need for impact studies to be conducted by the proponent.</p>	

<p>Implementation Plan</p> <p>In April 2020, DEM developed and published <i>MG30: Development of environmental outcomes for quarrying and mining</i>. This guideline improves efficiency and clarity for quarrying and mining applicants, and assist proponents and stakeholders by:</p> <ul style="list-style-type: none"> • providing regulator-approved environmental outcome wording; • providing a better understanding of government and stakeholder expectations regarding appropriate environmental outcomes, enabling these to be considered at early project planning stages; • ensuring consistency of environmental outcomes; and • explaining the regulatory and policy principles that apply to the setting of environmental outcomes. <p>DEM is currently in the process of creating a similar criteria guideline, which will include regulator-approved model criteria.</p> <p>DEM is currently trialling updated eligibility criteria and defined impact templates that allow blasting. This will expand use of the templates to quarry operators that are looking to provide higher specification products that can be used in regional road upgrade projects.</p>	<p>Complete by Q3 2021</p>
<p>4.3.1: Improving pre-lodgement process (see also Recommendation 4.2) with the aim of applications requiring minimal assessment once lodged, enabling early public consultation.</p>	<p>Supported</p>
<p>Response</p> <p>The government supports the introduction of measures, which achieve process efficiencies, enable efficient assessment once lodged, and allow for early public consultation to be undertaken at the earliest opportunity.</p>	
<p>Implementation plan</p> <p>DEM will consider opportunities for pre-lodgement and/or a proportionate scoping process to be available to reflect different levels of impact on the community and environment.</p>	<p>Complete by Q4 2021</p>
<p>4.3.2: Adopting the 14-day minimum period for publication of a notice of a proposed mining lease.</p>	<p>Supported</p>
<p>Response</p> <p>The government supports the adoption of a 14-day standard timeframe for statutory consultation under the <i>Mining Act 1971</i>, and the revised <i>Mining Act 1971</i> post-2020, for applications made using the defined impact template.</p>	
<p>Implementation plan</p> <p>A 14-day standard timeframe has already been adopted by DEM for all new assessments made using the defined impact template assessment process.</p>	<p>Completed</p>

4.3.3: Only referring applications to referral agencies where there is a statutory requirement.	Partially Supported
<p>Response</p> <p>The government refers defined template applications to referral agencies where there is a statutory requirement.</p> <p>However, DEM will continue to refer applications for proposals to co-regulators, which are likely to require a licence under the legislation they administer, in accordance with memorandums of understanding (MOU) and administrative arrangements.</p> <p>This assists in ensuring that there is consistency of decision making between DEM and other agencies administering subsequent authorisations, which is of benefit to applicants.</p>	
<p>Implementation plan</p> <p>DEM will review the current practice of application referrals in collaboration with co-regulators. This will be done when implementing Recommendation 4.4.</p>	<p>Complete by Q2 2022</p>
<p>4.3.4: Making internal endorsements and the DEM business process proportionate to the reduced risk profile; and</p> <p>4.3.5 Improving IT systems and interfaces to support transparency and enable online applications, assessment, real-time tracking and reporting.</p>	Supported
<p>Response</p> <p>The government supports a review of internal endorsements and business processes to create a better fit with the risk profile of a defined impact template assessment, including associated improvements to IT systems and interfaces.</p>	
<p>Implementation plan</p> <p>DEM is undertaking a range of initiatives and system projects to streamline lodgement, assessment and internal and external communications. This will improve transparency, enable real-time tracking and reporting and investigate online assessment options. It is envisaged this will ultimately be incorporated into an Industry Client Portal which is being considered jointly by DEM with the Department of Premier and Cabinet.</p>	<p>Complete by Q3 2021</p>



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Recommendation 4.4: Formalising referral arrangements between regulators

To increase regulatory efficiency for extractive mineral impact assessments and minimise the risks associated with a duplication of responsibility, DEM and all relevant referral agencies put in place formal administrative arrangements, authorised by relevant agency Chief Executives, that:

4.4.1: Clarify each agency's regulatory mandate and areas of responsibility.

4.4.2: Specify how areas of joint responsibility and interdependent regulatory functions will be managed by each regulator.

4.4.3: Specify the decision required from each regulator, with the principle of requiring no more information from a proponent than is necessary to reach that decision.

4.4.4: Please see response to 4.4.4 below.

4.4.5: Provide a procedure to escalate matters quickly to the final decision-maker where regulator delegates are unable to resolve any tensions in areas of responsibility impacting on the progress of an impact assessment application.

4.4.6: Specify the frequency of reviewing and updating the administrative arrangement.

A key underpinning principle of the arrangements is to balance a proportionate level of prescription to support practical and expedited referral activity with retaining delegates' ability to meet their regulatory role under their respective mandates.

Supported

Response

The government supports formalising referral arrangements between regulators to increase regulatory efficiency and minimise the potential for duplication of responsibility.

Implementation plan

As part of the implementation of the mining regulations from 1 January 2021, DEM will review and update its MOU and administrative agreements with the Environment Protection Authority (EPA), Department for Environment and Water (DEW), SafeWork SA, Department for Infrastructure and Transport (DIT) and Attorney-General's Department (AGD), which now has responsibility for Planning.

As part of this process, co-regulators have committed to ensuring that the roles and responsibilities of each regulator, and how they interact with one another where there is regulatory overlap, is clearly articulated. There will also be a focus on ensuring that, where applicable, there is consistency in timeframes, policy objectives and standards.

**Complete
by
Q2 2022**

4.4.4: Provide timeframes for completing referrals, after which if there is no response then the proposal is deemed to comply.	Partially Supported
<p>Response</p> <p>The government supports the application of standard referral timeframes, and notes that these are generally set out in formal administrative arrangements.</p> <p>However, government does not support the recommendation that non-adherence to this timeframe will result in automatic progression of an assessment. This recognises that in certain circumstances referral agencies may require an extension to agreed referral timeframes. For example, as a result of:</p> <ul style="list-style-type: none"> • statutory requirements under another Act • the need for specialist technical assessment, for complex assessment; and • resource constraints. <p>The progression of an assessment without the input of required referral agencies represents a significant risk to the state, including environmental and safety risks.</p>	
<p>Implementation plan</p> <p>Standard referral timeframes will be considered as part of the broader review of the formal administrative arrangements and memorandums of understanding between DEM and relevant co-regulators.</p>	Complete by Q2 2022
<p>Recommendation 4.5: Set and report new extractives target timelines for approval and publicly report performance against those targets</p> <p>In order to raise the productivity of the extractives regulatory process, DEM adopt a new target setting and reporting process for timelines for approvals and reviews in the DEM-led process that:</p>	
<p>4.5.1: Starts with the current targets but adopts goals for further reductions over three years, including to reflect specific issues or conditions associated with extractives related processes.</p> <p>4.5.2: Considers appropriate internal organisational arrangements and structures to support these goals.</p> <p>4.5.3: Consults with industry on proposed revised timeframes and supporting organisational arrangements, including on the underpinning principles and performance improvements to support those timeframes.</p> <p>4.5.4: Publishes explanatory information and regular progress reports on the performance against those targets.</p>	Supported
<p>Response</p> <p>The government notes that DEM currently tracks the time with DEM and the applicant for assessment and this information is published in the annual report. The setting of new target timeframes specific to extractive assessments, and specifically defined impact template assessments, is supported.</p> <p>In setting target timeframes, the government will consider the nature, complexity and location of proposals, the proponent's timeframe needs and quality of application information. The pre-lodgement scoping process referred to in the response to Recommendation 4.2 would consider these factors to optimise application assessment timeframes.</p>	

<p>Implementation plan</p> <p>DEM has also commenced several process reviews to streamline lodgement, assessment and communications, which will incorporate target setting and reporting processes.</p> <p>This includes an initial review of internal processes related to the extractive mineral lease application and PEPR and MOP assessment processes, with a key aim being to reduce application times.</p> <p>A project has also commenced to review internal endorsements, develop online application functionality and tracking. It is expected that learnings from this review will flow on to broader application processes.</p> <p>DEM will consult with government and industry on proposed target timeframes, noting that achievement of timeframes is also reliant on applications meeting the quality and information requirements needed to support a streamlined assessment process.</p>	<p>Complete by Q4 2021</p>
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<p>Recommendation 4.6: Reassess quarry product prequalification to support competitive material supply</p> <p>To enable regional businesses capable of developing low-risk campaign quarries to supply competitive materials in close proximity to regional projects, DIT in collaboration with DEM within six months of this recommendation being supported:</p>	
<p>4.6.1: Identify specific testing and other pre-qualification assessment processes that, without compromising DIT's capacity to manage related risk in construction projects, will enable the pre-qualification of, and therefore supply of construction materials by, new quarries located close to regional construction sites.</p>	<p>Partially Supported</p>
<p>Response</p> <p>The government supports measures which enable regional businesses capable of developing low risk campaign quarries to supply competitive construction materials in close proximity to regional projects. At the same time it is necessary to ensure that materials supplied meet applicable quality and assurance standards.</p> <p>It is noted that the DIT pre-qualification system does not extend to local government actions and decisions.</p>	
<p>Implementation plan</p> <p>DIT will identify specific testing and other pre-qualification assessment processes that will assist new quarries located close to regional construction sites to be able to pre-qualify provided that they are in the form of shallow, calcrete/kunkar (limestone pedocrete) sources located close to DIT sealed road construction projects in regional locations and meet applicable assessment criteria.</p>	<p>Complete by Q2 2021</p>

4.6.2: Identify changes to DEM's mineral claim and any other applicable mining authority that is required to align with and support amended DIT pre-qualification processes.	Supported
Response The government supports identifying changes to align DIT pre-qualification processes with other applicable mining authorities' requirements.	
Implementation plan The government supports identifying changes to align DIT pre-qualification processes with DEM's mineral claim and tenement application processes. DEM can authorise material sampling and testing on a mineral claim to allow the proponent to gather information at the earliest opportunity to support an application for pre-qualification.	Complete by Q4 2021
4.6.3: Consult with select industry participants on the implications for the proposals for both established suppliers and potential new entrants, including a focus on managing risks arising from the supply of poor quality materials.	Supported
Response The government acknowledges the need for consultation with industry participants to avoid risks arising from material supply.	
Implementation plan DIT will consult with participants who have been identified as pre-qualified pavement materials suppliers and other quarry and mobile crushing companies that DIT has recorded as enquiring about the pre-qualification scheme in the past three years. DIT's planning processes already assist quarries/project tenderers in pathways for pre-qualification and supply chain consideration. In relation to material quality, DIT will continue to ensure that potential suppliers meet required material quality standards, and offer sufficient supply. Other factors include proximity to project sites, the availability of smaller local pits/sources and other options to reduce haulage. DIT encourages tenderers who can establish short-term crushing plants or aggregate stockpiles, especially in rural or remote locations.	Complete by Q2 2021
4.6.4: Implement these changes.	
Response See responses above.	

<p>Recommendation 5.1: Strengthening the lead regulator model – updating environmental programs</p> <p>In order to support a lead regulator model and improve environmental outcomes through a more uniform and consistent approach, DEM in collaboration with co-regulators, audit existing environmental programs – PEPRs and MOPs – that work to:</p> <ul style="list-style-type: none"> • identify where there are gaps between the existing objectives and measurement criteria in environmental programs and applicable co-regulator contemporary environmental standards • communicate those gaps to quarry operators; and • support, in collaboration with quarry operators, updates to PEPRs and MOPs to align their objectives and measurement criteria with the contemporary environmental standards of applicable co-regulators. <p>To manage the impact on the regulator’s resources, and in consideration of the potential impact on industry, the audits be prioritised using a risk-based approach with attention to quarries identified as Strategic Resource Areas, those programs with obsolescent environmental criteria, and sites with existing proximity issues.</p>	<p>Supported</p>
<p>Response</p> <p>The government supports auditing extractive PEPRs and MOPs for strategic resource area (SRA) sites against contemporary standards.</p>	
<p>Implementation plan</p> <p>DEM will audit all PEPRs and MOPs for SRA sites against contemporary standards. The audit program will be prioritised based on compliance history and proximity to sensitive land uses.</p> <p>Following delivery of the audit program, DEM proposes that where gaps in environmental objectives and criteria exist, individual quarry operators will be requested to review and update MOPs and PEPRs.</p>	<p>Complete by Q2 2021</p>

<p>Recommendation 5.2: Alignment of co-regulator standards with quarry environmental program objectives and criteria</p> <p>To clarify the application of co-regulator mandates applicable to quarry activity, administrative arrangements are to be developed between DEM and relevant co-regulators, or revise and improve them where they are already in place. Those arrangements are to strengthen the lead regulator model, minimise duplication of regulator effort and provide for an ongoing systemic approach to align relevant co-regulator standards with environmental program (PEPRs and MOPs) objectives and criteria under the <i>Mining Act 1971</i>.</p>	Supported
<p>Response</p> <p>The government supports measures that streamline and strengthen the lead regulator model.</p>	
<p>Implementation plan</p> <p>To clarify the application of co-regulator mandates applicable to quarry activity, the administrative arrangements between DEM and the EPA will be reviewed and updated, and a new administrative arrangement between DEM and DEW will be developed.</p>	Completed by Q1 2022
<p>Recommendation 5.3: Modified road network access for transporting extractive materials to specified infrastructure projects</p> <p>To support increased infrastructure project efficiencies, decrease costs and create employment opportunities for regional road and other projects requiring extractives inputs, DEM and DIT jointly evaluate the feasibility of a modified road network access regime for the transport of extractive materials.</p> <p>The project to focus on but not be limited to the net productivity gains arising from the transport of extractive materials to regional infrastructure projects by more efficient vehicles accessing the road network.</p> <p>In addition to consultation with the National Heavy Vehicle Regulator, the project is to seek feedback from the South Australian Freight Council, Cement Concrete and Aggregates Australia, quarry operators and regional communities.</p> <p>The project report to be published on both public sector agencies' websites no later than 1 July 2021.</p>	Supported
<p>Response</p> <p>The government recognises the economic implications for transporting construction materials, including the influence of road network access on transport efficiency. As such, it supports the evaluation of the feasibility of a modified road network access regime for the transport of extractive materials.</p>	

Implementation plan

Initiatives and processes to review and expand road freight networks and routes across South Australia are already being progressed by DIT. These initiatives aim to both provide for higher productivity heavy vehicle configurations across South Australia and remove existing constraints associated with commodity or transport good type.

There are also a number of current road infrastructure projects, both underway or planned, already providing modified network access benefits including improved transport efficiencies, reduced travel times and improved road safety across Adelaide's arterial roads and South Australian highways. Examples include Moving Freight project initiatives such as the Kroemers Crossing roundabout in Barossa Valley, Strzelecki Track upgrades, Naracoorte roundabout upgrades and the Dublin Saleyards Access project.

In relation to the Commission's recommendation, DIT will evaluate and report on the feasibility of a modified road network access regime for the transport of extractive materials, and other commodities by:

- exploring opportunities to use the existing road network access regime more effectively
- consulting with the South Australian Freight Council, Cement Concrete and Aggregates Australia, quarry operators, regional communities, the wider freight industry and road transport regulators on options to standardise approaches and develop a common operating framework
- engaging more broadly with the sector to further clarify if/where issues are specifically network access regime based or related to aspects dealing with specific road managers/regulators.

DIT will also investigate and report on appropriate DIT Contract Master Specification enhancements which aim to explicitly assess and/or encourage tenderers to provide options for higher productivity gains for transport or haulage for significant infrastructure projects. Examples of potential enhancements include:

- a focus on high extractives use contracts or projects via materials tonnage threshold or similar
- encouraging tenderers to submit higher productivity vehicle configurations that can optimise the haul/vehicle choice and/or even indicative cost-price criteria whilst still meeting existing gazettal requirements on road and providing overall efficient contract price
- early works contracts to explicitly identify material sources/quarries and commence pathways for pre-qualification and/or other regulatory approvals, especially for rural/remote large DIT projects (refer co-regulation recommendation that can provide a benefit).

As part of this process, DIT will consult with stakeholders on proposed amendments to the DIT Contract Master Specification.

Project reports will be published on both DIT and DEM's websites by 1 July 2021.

Complete by
Q2 2021

Recommendation 5.4: First and last mile access improvements

To support productivity gains by using more efficient heavy vehicles to transport construction materials on parts of the road network where their access is not currently authorised, the Minister for Energy and the Minister for Transport to establish a joint industry-government partnership in the spirit of *Improving Road Transport for Primary Production* project to:

5.4.1: Identify first and last mile road access locations used to transport extractive minerals on a prioritised basis, including access to/from established and proposed metropolitan and regional quarries, and fixed end-user locations such as batch plants.

5.4.2: For response to 5.4.2 please see below.

5.4.3: Consult quarry operators, transport industry, local government, community and other regulators with relevant mandates, such as the Environment Protection Authority.

5.4.4: This project is to recommend by 1 July 2021 proposed road network access reforms, based on cost-benefit analysis, for action by the State.

**Partially
Supported**

Response

The government supports measures that seek to improve first and last mile road access. However, as the majority of first and last mile access locations are on local government road networks, the ability of the government to implement this recommendation is limited.

As such, the government proposes to focus on those areas within the state's road authority jurisdiction.

Implementation plan

In response to this recommendation DIT will undertake a study to test and improve processes using an existing quarry case study and DIT project(s). This will involve:

- working with industry and other key stakeholders to identify priority locations
- exploring DIT infrastructure projects to
 - assess route locations
 - identify opportunities/mechanisms for potential 'temporary' first and last mile access submissions and approval mechanisms; and
 - recommend key improvements, including network access reforms or priority identified location improvements, based on a cost-benefit analysis.

It is anticipated that an outcome of these projects will be the identification of potential Capex road upgrades, which could provide long term and sustainable access. However, government and/or local government funding for these would be subject to a feasibility study.

**Complete by
Q2 2021**

5.4.2: Determine the extent to which the State Planning Policy and the current transport related Planning and Design Code overlay proposals address those identified first and last mile issues.	Supported
Response <p>The government recognises the significance of first and last mile access issues for the extractives industry and supports the Commission's recommendation.</p>	
Implementation plan <p>To address the first and last mile issues identified by the Commission, AGD¹ will investigate and determine:</p> <ul style="list-style-type: none"> • whether State Planning Policies provides sufficient strategic direction for Regional Plans and the Planning and Design Code in relation to the management of first and last mile land use conflict; and • the inclusion of an Overlay aimed at the management of first and last mile land use conflict within the Planning and Design Code (inclusive of considering adaptation of the Noise and Air Emissions Overlay already within the Planning and Design Code to this end). 	Complete by Q4 2021

¹ As a result of machinery of government changes, the Attorney-General's Department is now responsible for Planning.

Recommendation 5.5: Prioritising road network upgrades to optimise the extractive minerals supply chain To create opportunities for state infrastructure project cost savings to government, DIT are to incorporate the efficiencies that can be delivered in relation to the transport of extractive materials in their business cases for prioritising road network development and upgrades – eg road network access improvements and first and last mile projects.	Partially Supported
Response <p>The government supports investigating opportunities to create state infrastructure project cost savings to the state.</p>	
Implementation plan <p>DIT will continue to implement road network upgrades on road freight routes, with benefits flowing to the extractives sector and the broader road freight sector. These road infrastructure upgrades, both current and planned, are essential to improving transport efficiency, reducing travel times and improving road safety across Adelaide's arterial roads and South Australian highways.</p> <p>In addition, DIT will progress initiatives and processes to review and expand arterial road freight access networks and routes across South Australia. For example, through the provision, and gazettal, of higher productivity heavy vehicle configurations across South Australia. It is noted that although these initiatives are not constrained by commodity type, they will provide benefits to the extractives sector.</p>	Complete by Ongoing

Recommendation 5.6: Reform of explosives regulation in South Australia

In support of stronger industry engagement and improved sourcing and deployment of explosives across the South Australian extractive minerals industry, the Treasurer and SafeWork SA:

5.6.1: Evaluate SafeWork SA's existing standards, practices and administrative arrangements consequent on, and to the extent possible concurrently with, the existing South Australian explosives regulation reform process.

Supported

Response

The government supports the Commission's recommendation, and notes that work to reform South Australia's explosives legislation, including the evaluation of existing standards, practices and arrangements, is currently underway.

Implementation plan

SafeWork SA is currently finalising the drafting of the *Explosives Bill 2020*, which will replace the current *Explosives Act 1936*.

SafeWork SA will review existing standards, practices and arrangements as part of this process to ensure that they reflect contemporary standards and are in line with modern legislative practice. In particular, the drafting is guided by agreed national policy proposals which seek to achieve consistency in the application of explosives laws.

**Complete by
Q3 2021**

5.6.2: Consult with industry representatives, quarry operators, state and national regulators and other stakeholders on these matters and publish the outcomes of those consultations and policy and administrative reforms, on SafeWork SA's website.

Supported

Response

The government acknowledges that the extractives industry is a consumer of explosives products and possess expertise related to the deployment and use of those products. As such, the government views industry feedback on explosives reforms as critical to ensuring that legislative, and associated policy and administrative changes, both reflect best practice and take into account commercial factors.

Implementation plan

As part of the explosives regulation reform process, SafeWork SA will consult with key stakeholders, including those from the extractives sector, on the *Explosives Bill 2020*.

Feedback on the *Explosives Bill 2020* will be collated and considered by SafeWork SA in finalising the Bill.

Documentation that gives effect to that consultation, principally a settled Explosives Bill, will be published on the SafeWork SA website.

**Complete by
Q2 2021**

<p>Recommendation 5.7: Managing current and future proximity issues</p> <p>To mitigate existing proximity issues, DIT in conjunction with DEM design and implement a methodology for applying the Resource Extraction Zone and Resource Extraction Protection Area Overlay to those existing quarries that will not be covered by those arrangements on implementation of the Planning and Design Code, beginning with SRA quarries in the Greater Adelaide Area.</p>	<p>Supported</p>
<p>Response</p> <p>The government understands the need to balance development within the planning system with the need to ensure ongoing access to long-life valuable extractive mineral resources.</p> <p>In recognition of this, the government supports measures which aim to protect both current and future state significant resource extraction activities by ensuring that development has regard to potential environmental and amenity impacts generated by the lawful operation of proximate mines and quarries.</p>	
<p>Implementation plan</p> <p>The Resource Area Management and Planning (RAMP) Project, jointly undertaken by the former Department of Planning Transport and Infrastructure and DEM, gave some focus to the design of a methodology for the application of the planning policy approaches and informed the Resource Extraction Zone and Resource Extraction Protection Overlay within the Planning and Design Code.</p> <p>The government will build upon the findings of the RAMP project to investigate, design and implement a methodology for application of the Resource Extraction Protection Overlay to land surrounding SRA quarries in Greater Adelaide. This will feature approaches to engagement with affected communities that accords with the Community Engagement Charter under the <i>Planning, Development and Infrastructure Act 2016</i>.</p> <p>As recognised by the Commission, highly valued land often surrounds SRA quarries in Greater Adelaide. The application of the Resource Extraction Protection Overlay to this land has the potential to result in detrimental impact on proximate interests if not carefully considered, designed and implemented. Time must be given to these processes to ensure that the values placed on this land are considered and respected.</p>	<p>Complete by Q4 2022</p>

<p>5.7.1: To avoid the risk of future proximity issues and mitigate the risk of premature sterilisation of strategic resources, the Geological Survey of South Australia update and publish the extractives Strategic Resource Areas of the state to inform the application by DIT of the Resource Extraction Zone and Resource Extraction Protection Area Overlays required to protect extractive resources capable of being exploited in the future.</p>	<p>Supported</p>
<p>Response</p> <p>The government supports publishing information regarding the location and extent of SRAs to inform the application of the Resource Extraction Zone and Resource Extraction Protection Area Overlays required to protect extractive resources capable of being exploited in the future.</p>	

Implementation plan

The Geological Survey of South Australia will review and update the *Identification of Strategic Mineral Resource Areas in South Australia – Greater Adelaide Region and Major Regional Centres report* (SRA report), originally published in 2015.

An updated SRA report will be published on DEM's website.

Complete by
Q3 2021

5.7.2: To respond to key outcomes proposed by the Resource Area Management and Planning Project, DIT and DEM establish a joint project to design and implement processes that will align quarry lease and operating approvals under the *Mining Act 1971* with zoning arrangements under the *Planning, Development and Infrastructure Act 2016* to ensure that the Resource Extraction Zone and Resource Extraction Protection Area Overlay are applied in the course of the process of establishing a quarry.

Supported

Response

The government supports exploring options to implement processes that will align quarry lease and operating approvals under the revised *Mining Act 1971* with zoning arrangements under the *Planning, Development and Infrastructure Act 2016*.

Implementation plan

The *Planning, Development and Infrastructure Act 2016* provides a facility for expedited amendments to the Planning and Design Code that align it with plans, reports, and documents that are adopted or prepared under another Act.

The Attorney-General's Department (AGD) will work with DEM to investigate how this facility can be used to apply the Resource Extraction Zone and Resource Extraction Protection Overlay to land which is subject to an approval given under the revised *Mining Act 1971*.

Complete by
Q4 2021



<p>Recommendation 5.8: Planning for closure</p> <p>DEM implement a flexible and transparent approach to planning for final land use post-quarry closure, and associated rehabilitation obligations, by incorporating pre-approved ‘triggers’ into the regulatory framework that will result in a review of expected final land forms and associated rehabilitation requirements. Consideration to be given to incorporating the following as lease conditions and/or environmental program (PEPR and MOP) criteria:</p> <ul style="list-style-type: none"> • time-based triggers particularly for quarries with a long life cycle • environmental obligation triggers – for example, native vegetation offset requirements that impact on the commercial value of land • geological triggers given the lack of up-front exploration undertaken by most quarry operators which can lead to unforeseen discoveries down the track; and • financial triggers that impact on a company’s ability to access capital including price fluctuations and levels of infrastructure activity. 	<p>Supported</p>
<p>Response</p> <p>The government recognises there is an opportunity for the quarrying sector in South Australia to be a leader in repurposing of completed quarries to realise ongoing economic benefits through an imaginative and holistic approach to planning and design over the quarry life cycle. It also recognises that deciding post mining land use early in the life of a quarry may not be practical and end use planning must be a process incorporated into the resource extraction planning process over the quarry life.</p> <p>In addition, the government is committed to ensuring that all mining and quarrying operations are designed and operated to achieve appropriate environmental outcomes (safe, stable, non-polluting and visually appropriate) subsequent to cessation of operations.</p> <p>To achieve the objectives of maximising extractive resource recovery, achieving appropriate environmental completion outcomes and creating valuable repurposed assets for the community, a holistic, integrated and progressive approach to the quarry planning and design process is required.</p> <p>The government agrees with the Commission that to be effective, a progressive quarry design process must incorporate review triggers that ensure progressive quarry development decisions are aligned with the three objectives mentioned above and potential repurposing opportunities are not precluded prematurely.</p> <p>The planning process should also involve relevant stakeholders, including the community and the relevant planning authority, to identify opportunities for repurposing quarries into assets that offer ongoing benefits beyond the end of quarrying operations.</p>	
<p>Implementation plan</p> <p>DEM will develop guidance material that covers:</p> <ul style="list-style-type: none"> • holistic quarry planning and design processes that seek to accomplish the objectives of maximising extractive resource recovery, achieving appropriate environmental completion outcomes and creating valuable repurposed assets for the community • practical criteria and triggers for end use planning to facilitate opportunities to link progressive rehabilitation and quarry development milestones with end use plans; and • efficient regulatory mechanisms. 	<p>Complete by Q3 2021</p>

Recommendation 5.9: Review of extractives financial indemnification model

DEM lead a joint review with representatives from industry and key co-regulators to investigate and identify opportunities to reform the current extractives rehabilitation indemnification model. The review will:

- **have regard to the Council of Australian Governments Energy Council’s ‘National Principles for Managing Rehabilitation Financial Risks’**
- **consider different financial assurance models (including bonds and insurance funds), regulatory tools and complementary approaches applied in other jurisdictions to identify approaches that could be adopted to improve the efficiency and effectiveness of extractives rehabilitation indemnification in South Australia**
- **review the results of an actuarial analysis of extractives sites undertaken by DEM to provide a more complete understanding of the potential rehabilitation liability – including impacts arising through the application of progressive rehabilitation practices**
- **increase the transparency of, and accountability for, extractives indemnification arrangements, including criteria that determine who can access, and ground for expenditure of, funds**
- **clearly identify the link between the type of rehabilitation liability (incomplete or insufficient, or outright default) and how indemnification funding is to be applied**
- **publish and seek comment on the review findings prior to finalising a preferred approach; and**
- **develop implementation and communication plans to support and promote a shared understanding between regulators and the extractives industry on the purpose and application of the preferred approach.**

Partially Supported

Response

The *Mining Act 1971* establishes the holder of a mineral tenement as being responsible for rehabilitation of the land disturbed by mining operations.

The provision of the Extractive Areas Rehabilitation Fund (EARF) does not indemnify the holder of a mineral tenement from their responsibility to rehabilitate land disturbed by mining or quarrying operations.

The *Mining Act 1971* provides financial assurance mechanisms to protect the state from assuming mine rehabilitation liabilities where the tenement holder fails to fulfil their rehabilitation responsibilities due to financial incapability. Holders of mineral production tenements, other than for extractive minerals, are required to provide a rehabilitation bond for the full estimated rehabilitation liability. The EARF accrues funds from a royalty rate hypothecated by the Treasurer and paid on extractive mineral production.

The EARF may only be accessed by the government to fund rehabilitation of quarries where the tenement holder or quarry operator is not able to meet their rehabilitation obligations under the Act due to entering administration or liquidation.

The government recognises there is a gap in the expectations of some industry representatives regarding the purpose of the EARF. However, this appears to be historical in nature. DEM will continue to inform and communicate on industry responsibilities and the EARF's objectives.

Implementation plan

DEM will publish a policy which clarifies the purpose and function of the EARF in response to the consultation on the new mining regulations. The policy will describe the grounds for expenditure of the funds. DEM will inform industry on the published policy.

Complete by
Q4 2020
publish EARF
policy.

There is an intention to do a review of rehabilitation financial assurance for the broader industry in 2021.

As part of the consultation arrangements on the new mining regulations, a discussion paper is intended to be prepared in 2021 to consider options, such as bonds and levies, for rehabilitation financial assurance for exploration and mining. The review will consider funding and management options for the new Mining Rehabilitation Fund (MRF), established under revised *Mining Act 1971*.

This consultation process presents an opportunity to also consult with industry on the extractives-related financial assurance arrangements, taking into account the specific considerations that are emphasised in the Commission's recommendation.

Q4 2021
commencement
of a review of
rehabilitation
financial assurance
arrangements
for the minerals
sector, including the
extractives sector.

Acknowledgement of Country

The Department for Energy and Mining (DEM) acknowledges Aboriginal people as the First Nations Peoples of South Australia. We recognise and respect the cultural connections as the traditional owners and occupants of the land and waters of South Australia, and that they continue to make a unique and irreplaceable contribution to the state.



**Government
of South Australia**

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