

Proposed Mineral Resources
(Sustainable Development)
(Extractive Industries)
Amendment Regulations
2014 (Fees)
Regulatory Impact Statement

Victorian Department of State
Development, Business and
Innovation

March 2014

Mineral Resources (Sustainable Development) (Extractive Industries) Amendment Regulations 2014 (Fees) Regulatory Impact Statement

This Regulatory Impact Statement (RIS) has been prepared to fulfil the requirements of the ***Subordinate Legislation Act 1994*** and to facilitate public consultation on the proposed Mineral Resources (Sustainable Development) (Extractive Industries) Amendment Regulations 2014 (Fees). A copy of the proposed regulations is provided as an attachment to this RIS.

Public comments and submissions are invited on the proposed Regulations, in response to information provided in this RIS. All submissions will be treated as public documents. Written comments and submissions should be forwarded no later than Tuesday 15 April 2014 to:

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Glossary

DSDBI	Department of State Development, Business and Innovation
DPI	Former Department of Primary Industries
EDIC	Economic Development and Infrastructure Committee
Extractive industry work authority	A work authority relating to extractive industry granted under section 771 of the <i>Mineral Resources (Sustainable Development) Act 1990</i>
EES	Environmental Effects Statement
Extractive Regulations	<i>Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010</i>
Mineral Regulations	[the former] Mineral Resources Development Regulations 2002 (note, these Regulations expired in October 2013 and have been replaced by the <i>Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013</i>)
MRSDA	<i>Mineral Resources (Sustainable Development) Act 1990</i>
RIS	Regulatory Impact Statement
SE	Statutory Endorsement
Stone	All stone, sand soil, gravel and clay

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Executive Summary

Background

Victoria's extractive industries are primarily regulated under the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) and associated *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010* (Extractive Regulations). The Extractive Regulations were re-made in 2010, so are not due to sunset for seven years. However, during the re-making of these regulations, the Government determined that cost recovery considerations would be delayed until fees were being considered as part of future amendments to the MRSDA to implement the then MRSDA Review (Phase 2). These amendments have now been overtaken by the Economic Development and Infrastructure Committee *Inquiry into Greenfields Mineral Exploration and Project Development in Victoria* (the EDIC Inquiry). The Government response to the EDIC Inquiry has been released and implementation is expected over the next two years.

The Department of State Development, Business and Innovation (DSDBI) is seeking to align the level of extractive industry cost recovery with best practice policy principles, specifically those outlined in the Department of Treasury and Finance's *Cost Recovery Guidelines*.¹ This would be implemented by proposed amendments to fees under the Extractive Regulations. In accordance with the requirements of the *Subordinate Legislation Act 1994*, a Regulatory Impact Statement (RIS) is required to determine the burden imposed on sectors of Victorian society by the proposed fee changes.

The scope of the cost recovery component of this work was restricted in some areas. In particular, the scope of the work:

- Was restricted to improving cost recovery for activities undertaken by the former Department of Primary Industries (DPI)², so excluded any related activities or work undertaken by other departments in relation to the MRSDA
- Excluded the consideration of revenues earned from royalties applicable under the MRSDA (discussed below)
- Excluded consideration of activities relating to geo-science information services.

Nature and extent of the problem

The total cost base for regulatory activities performed by DSDBI under the Extractive Regulations is \$1.6 million per annum. Revenue from fees charged under the Extractive Regulations was approximately \$0.01 million in 2010-11 and \$0.02 million in 2009-10. This indicates that less than 1% of costs associated with regulating the extractive industry are recovered through fees charged to industry. This represents a shortfall of around \$1.59 million per annum.

¹ Department of Treasury and Finance, (2013), *Cost Recovery Guidelines*, January.

² The relevant parts of DPI (Earth Resources Development and Earth Resources Regulation Victoria) are now within the Department of State Development, Business and Innovation. Generally speaking, references to DPI in this RIS can be read as references to DSDBI and vice versa.

Objective of government action

The objective of the proposed changes to the Extractive Regulations is to amend the prescribed fees to recover the costs of regulating the extractive industry so that they are in alignment with general government policy and cost recovery principles.

The options

The options considered within this RIS to address the problem are as follows:

- The base case - the existing fee structure
- Option 1 - new structure with work authority annual fees based on nature of operation
- Option 2 - new structure with work authority annual fees based on production levels.

Assessment of the options

Consistent with standard practice for fees RISs, options for the fees are assessed using multi criteria analysis (MCA). The options have been assessed against the following criteria: efficiency, equity and effectiveness. These criteria were ranked between -10 (significant negative impact) and +10 (significant positive impact). All criteria were weighted equally.

A summary of the results of the MCA is provided in in the table below.

Table E1: Summary of MCA results

Criteria	Weighting	Base case	Option 1	Option 2
Efficiency	33.3 per cent	0	+10	+10
Equity	33.3 per cent	0	+10	+8
Effectiveness	33.3 per cent	0	+5	+8
Weighted total	100 per cent	0	+8.3	+8.6

Source: Deloitte analysis

As demonstrated in Table E1, Option 2 is the preferred option by a very slim margin.

Preferred option

Based on the MCA the preferred option is Option 2 – the new structure with extractive industry work authority annual fees using six key categories for classing operators based on the annual production value.

The structure also involves four key categories for classing operators starting from those that require the least regulatory effort (Category 1), to those that require the most (Category 4). The categories are based on three proxy measures for regulatory effort: size (small versus large), proximity to sensitive locations and whether operations involve blasting. The structure also involves higher fees for work plans where the underlying development requires a planning permit (statutory endorsement (SE)) or Environment Effects Statement (EES). Table E2 provides a summary of the four categories.

Table E2: Specification of Categories 1 - 4

Category	Corresponding Item Number(s) in Exposure Draft Regulations	Description
1 ¹	1	Small quarry, extractive industry work authority with an area of less than 5 hectares.
2 ²	2 and 4	Quarry with no 'sensitive locations' within 500 metres for blasting and 200 metres for no blasting (and an area of 5 hectares or more).
3	3	Quarry with no blasting involved, with 'sensitive locations' within 200 metres (and an area of 5 hectares or more).
4 ²	5	Quarry with blasting involved, with 'sensitive locations' within 500 metres (and an area of 5 hectares or more).

Source: DPI

Note: ¹Category 1 is only based on size. There are no additional blasting/sensitive location parameters. ²Due to technical legislative drafting practice, in the Exposure Draft Regulations "Category 2" (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, "Category 4" in the table above is represented by 'item 5' in each of the relevant fee tables in the Exposure Draft Regulations.

This conclusion is made on the basis that Option 2:

- Achieves 100% cost recovery
- Improves equity by reducing the level of cross subsidisation
- Is transparent and efficient to implement.

The proposed fee schedule under the preferred option, expressed in fee units and 2011-12 prices, is provided in Table E3.

Table E3: Proposed fees, including comparison with existing fees (amounts expressed in 2011-12 prices¹)

Fee description	Proposed fee	Existing fee	% change
Fee for application of an extractive industry work authority	\$1,135	\$122 to \$501	126% to 828%
Fee for request to vary an extractive industry work authority	\$256	\$318	-19%
Fee for transfer of an extractive industry work authority	\$176	\$196	-10%
New annual fee for extractive industry work authority			
\$0 to \$100,000	\$356		New fee
\$100,001 to \$500,000	\$712		New fee
\$500,001 to \$1,000,000	\$1,424		New fee
\$1,000,001 to \$5,000,000	\$5,698		New fee
\$5,000,001 to \$10,000,000	\$8,547		New fee
Greater than \$10,000,000	\$10,683		New fee
Total			

<i>Average/existing fee</i> ²	\$1,493	N/A	N/A
New fee for initial application for an extractives Work Plan ³			
Cat. 1 (SE)	\$1,575		New fee
Cat. 2 (SE) ⁶	\$3,936		New fee
Cat. 3 (SE)	\$4,724		New fee
Cat. 4 (SE) ⁶	\$9,448		New fee
Cat. 1 (EES) ⁴	N/A		New fee
Cat. 2 (EES) ^{5,6}	\$15,746		New fee
Cat. 3 (EES) ⁵	\$15,746		New fee
Cat. 4 (EES) ⁶	\$31,492		New fee
Total			
<i>Average/existing fee</i> ²	\$6,113	\$379	1514%
New fee for application to vary an extractives Work Plan ³			
Cat. 1 (No SE or EES)	\$487		New fee
Cat. 2 (No SE or EES) ⁶	\$1,217		New fee
Cat. 3 (No SE or EES)	\$1,460		New fee
Cat. 4 (No SE or EES) ⁶	\$2,920		New fee
Cat. 1 (SE)	\$1,460		New fee
Cat. 2 (SE) ⁶	\$3,894		New fee
Cat. 3 (SE)	\$4,867		New fee
Cat. 4 (SE) ⁶	\$9,735		New fee
Cat. 1 (EES) ⁴	N/A		
Cat. 2 (EES) ^{5,6}	\$14,602		New fee
Cat. 3 (EES) ⁵	\$14,602		New fee
Cat. 4 (EES) ^{5,6}	\$29,204		New fee
Total			
<i>Average/existing fee</i> ²	\$3,430	\$318	980%

Source: Deloitte analysis

Notes: ¹Fees are reported in 2011-12 prices to ensure consistency and comparability throughout the RIS. ²The amount provided in the second column represents the average across all fee categories. This is not a proposed fee, rather it is provided for comparative purposes and/or to provide an indication of what the fee would be if all applicants of regulated entities were charged the same regardless of the nature of the operation in question.

³Estimates of the cost and number of work plan fees relate to both extractives and minerals work plans as the fees were set so as to be consistent between both sectors ⁴Work plan applications for small quarries do not typically involve an EES, so a fee in this category is not applicable. ⁵Work plan applications involving an EES have not been submitted in recent times by quarry operators in some categories. However, that is not to say that such applications are not possible in the future. As such, a fee has still been created for these categories. ⁶Due to technical legislative drafting practice, in the Exposure Draft Regulations "Category 2" (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, "Category 4" in the table above is represented by 'item 5' in each of the relevant fee tables in the Exposure Draft Regulations.

1 Introduction

This section outlines the purpose of this report and provides a contextual overview of the extractive industry in Victoria and the legislative framework for the regulation of this industry.

1.1 Purpose of this report

The DSDBI is seeking to align the level of extractive industry cost recovery with best practice policy principles, specifically those outlined in the Department of Treasury and Finance's *Cost Recovery Guidelines*.³ In accordance with the requirements of the *Subordinate Legislation Act 1994*, a RIS is required to determine the burden imposed on sectors of Victorian society by the proposed fee changes.

The Extractive Regulations were re-made in 2010, so are not due to sunset for seven years. However, during the re-making of these regulations, the Government determined that cost recovery considerations would be delayed until fees were being considered as part of future amendments to the MRSDA to implement the then MRSDA Review (Phase 2). These amendments have now been overtaken by the EDIC Inquiry. The Government response to the EDIC Inquiry has been released and implementation is expected over the next two years.

Deloitte Access Economics has been engaged by DSDBI to prepare the RIS to the standard required by the *Victorian Guide to Regulation*.

The scope of the cost recovery component of this work was restricted in some areas. In particular, the scope of the work:

- Was restricted to improving cost recovery for the former DPI, so excluded any related activities or work undertaken by other departments in relation to the MRSDA
- Excluded the consideration of revenues earned from royalties applicable under the MRSDA (discussed below)
- Excluded consideration of activities relating to geo-science information services.

1.2 The extractive industry in Victoria

Under Victorian legislation, extractive industries refers to the removal or extraction of stone⁴ from the earth for the purposes of sale or commercial use, or for the purposes of roads, buildings, construction or manufacturing works. In Victoria, stone is the property of the land owner in which it is located, regardless of whether it is on or below the surface of that land. Stone located on Crown land is owned by the Crown.

³ Department of Treasury and Finance, (2013), *Cost Recovery Guidelines*, January.

⁴ Under section four of the MRSDA the term 'stone' refers to: Sandstone, freestone or other building stone; basalt, granite, limestone or rock of any kind ordinarily used for building, manufacturing or construction purposes; quartz (other than quartz crystals); slate or gravel; clay (other than fine clay, bentonite or kaolin); sand, earth or soil; or other similar materials.

1.2.1 The extractive industry

In 2010-11 there were 876 quarries operating in Victoria, producing a range of hard rock, clay, sand and gravel. A total of 643 of these reported a total production of 52.2 million tonnes in 2010-11. The extractive industries consist of a range of operators, from a few large and medium operators to numerous small operators. Many small extractive industries operators consist of one or two employees and are located in regional and rural areas of Victoria.

Stone is a high volume, low value product. Quarries are situated where stone occurs naturally. However, due to the high cost of transport relative to the value of the product, quarries tend to be located close to consumer markets to minimise transport costs. This also means that quarries often operate on the fringe of urban developments and may be in close proximity to local residents.

The number of quarries operating in Victoria rose considerably between 2001-02 and 2003-04 because of the licensing of smaller pits in the State, but has remained relatively stable since then.

Table 1.1: Victorian Extractive Industries Production and Sales by Products: 2010-11

Product Group	Product Type	Sales - volume (tonnes)	Sales - value (\$A)
Single size products	Aggregate	14,149,713	269,816,822
	Armour	250,973	4,293,349
Single size products total		14,400,686	274,110,171
Multi size products	Road base	7,017,953	104,412,479
	Road sub-base	11,778,989	136,675,009
	Fill	3,092,248	30,716,532
Multi size products total		21,889,190	271,804,020
Sand products	Concrete sand	6,135,709	95,152,919
	Fine sand	2,083,088	21,593,767
	Industrial	30,270	453,151
	Foundary	5,948	200,000
	Glass sand	521,703	13,200,000
Sand products total		8,776,718	130,599,837
Limestone Products	Cement	954,945	12,746,507
	Agriculture	425,504	7,663,470
	Lime	62159	8,356,898
Limestone products total		1,442,608	28,776,875
Clay products	Brick	1,738,326	4,064,473
	Stoneware	1,600	28,800
	Tile/pipe	39,552	160,680
Clay products total		1,779,478	4,253,953
Miscellaneous	Dimension stone	7,763	1,532,705
	Unspecified	3,943,024	49,185,524
Miscellaneous total		3,950,787	50,718,229
GRAND Total		52,239,467	760,253,485

Source: DPI 2012 Victoria's Minerals, Petroleum and Extractive Industries - 2010/11 Statistical Review, accessed at <http://dpistore.efirst.com.au/product.asp?plD=1106&cID=46>

1.3 Regulatory framework

In Victoria the MRSDA provides the legislative framework for the extractive industries (quarries) including gravel, sand, soil, building stone and clay.⁵

The purpose of the MRSDA is ‘to encourage mineral exploration and economically viable mining and extractive industries which make the best use of, and extract the value from, resources in a way that is compatible with the economic, social and environmental objectives of the State’.⁶

The application of the MRSDA is supported by the Extractive Regulations. The objects of the Extractive Regulations are to prescribe the following:

- Various procedures relating to work plans and extractive industry work authorities
- Matters relating to royalties
- Fees, forms and other matters authorised by the MRSDA
- Certain offences as infringement offences.⁷

The following provides an overview of these regulations as they relate to royalties, work plans and authorities.

1.3.1 Royalties

Royalties are payable for the extraction of stone from Crown Land. The amount of the royalty payable varies according to the nature of the materials being extracted:

- For all stone other than dimension stone and marble, royalties are payable at the rate of \$1.43 per cubic metre or \$0.87 per tonne
- For dimension stone and marble, royalties are payable at the rate of \$8.07 per cubic metre or \$3.23 per tonne.

Royalties are an economic rent that is collected by the State Government, based on the Crown’s ownership of resources. They are not subject to the cost recovery principles in the same way that fees or levies are. Determining the appropriate level of the royalties set in the Extractive Regulations is therefore beyond the scope of this RIS.

1.3.2 Work plans and authorities

A company wishing to engage in extraction activities must lodge a work plan with DSDBI, have that work plan approved, and possess the appropriate work authority before they can commence work.

The information requirements for extractive industry work plans and authorities are stipulated under the MRSDA and Extractive Regulations, and include:

- Details of the work to be undertaken, including estimates of stone resources, and geological information on the area
- Maps of the area in which extractive work is to be done including a location, site and regional plan

⁵ The MRSDA does not legislate for the extraction of fine clay, kaolin or salt. These are dealt with in combination with land use controls under the *Planning and Environment Act 1987*.

⁶ *Mineral Resources (Sustainable Development) Act 1990*, Section 1.

⁷ *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations*, Section 1.

- Quarry stability information (if the area is a declared quarry)
- Environmental management program
- Rehabilitation plans for any areas that are subject to disturbance
- Community engagement plan detailing community consultations and facilities that may be impacted by extractive work
- Procedure for complaints management including registering, documenting and responding to concerns raised by the local community.

In addition, a person must apply for consent to search for stone on Crown Land or authority to search for stone for DSDBI (on private land). The MRSDA requires that work plans be approved and that an extractive industry work authority be held to carry out extractive activities.

1.4 Structure of report

The remainder of this report is structured as follows:

- Chapter 2: outlines the principles of cost recovery, the problem to be addressed, the risk of non-intervention and the objectives of intervention
- Chapter 3: outlines the options to be assessed through the analysis. Options have been developed to address the cost recovery problems identified in Chapter 3
- Chapter 4: contains an assessment of fee options
- Chapter 5: contains a summary of the preferred option including implementation issues, enforcement issues and the evaluation strategy
- Chapter 6: contains the statements of compliance, namely: the impact on small business and assessment of competition impacts
- Chapter 7: provides a summary of stakeholder consultation conducted during the development of the RIS
- Appendix A: outlines the methodology and details of the analysis to define cost recoverable activities.
- Appendix B: outlines the methodology and details of the cost recovery and fee analysis

2 Problem to be addressed

This chapter outlines the principles of cost recovery, the problem to be addressed, the risk of non-intervention and the objectives of intervention

2.1 Extractive Regulations

The Extractive Regulations were re-made in 2010. During the re-making of the regulations it was suspected that the revenue from fees charged under the regulations was not sufficient to cover costs. However, the Government determined that cost recovery considerations would be delayed until fees were considered as part of future amendments to the MRSDA to implement the then MRSDA Review (Phase 2). These amendments have subsequently been overtaken by the EDIC Inquiry. The Government response to the EDIC Inquiry has been released and implementation is expected over the next two years.⁸

2.2 Ensuring cost recovery for regulated activities

Cost recovery through fees occurs on the basis of a user-pays system, whereby those who utilise services are obliged to pay for the cost of those services, rather than having them funded from general taxation revenues. Under full cost recovery, taxpayers in general are not subsidising those who use the service for which costs are being recovered.

In managing Victoria's extractive industries and administering the MRSDA and Extractive Regulations, Government imposes a number of fees and charges on industry operators. Through these fees and charges the cost of government-provided activities that reflect the costs imposed by the actions of the extractive industry can be recouped.

Cost recovery has the potential of advancing both equity and efficiency objectives, although in some cases these objectives may need to be balanced against each other. The *Victorian Guide to Regulation* and general government policy is that regulatory fees and user charges should be set on a full cost recovery basis to ensure that both efficiency and equity objectives are met.⁹ Full cost represents the value of all the resources used or consumed in the provision of an output or activity. In particular:

- Full cost recovery promotes the efficient allocation of resources by sending the appropriate price signals about the value of all the resources being used in the provision of government goods, services and/or regulatory activity

⁸ The *Mineral Resources Development Regulations 2002* (Mineral Regulations) expired in October 2013 and were replaced by the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013*. A review of the fees associated with both the Mineral Regulations and Extractive Regulations was undertaken previously. The new Mineral Regulations introduce a new fee structure with 100% cost recovery provisions based on the outcomes of the fee review. The proposed amendments to the Extractive Regulations will ensure consistency in the fee approach for the minerals and extractive industries.

⁹ Department of Treasury and Finance, (2011), *Victorian Guide to Regulation, Edition 2.1*, August

- From a horizontal equity point of view, full cost recovery ensures that those that have benefited from government-provided goods and services, or those that give rise to the need for government regulation, pay the associated cost. Those parties that do not benefit or take part in a regulated activity do not have to bear the costs.

2.3 Problem to be addressed

According to the results of the cost recovery analysis outlined in Appendix B of this report, the total cost base for regulatory activities performed by DSDBI under the Extractive Regulations is \$1.6 million per annum. Revenue from fees charged under the Extractive Regulations was approximately \$0.01 million in 2010-11 and \$0.02 million in 2009-10. This indicates that less than 1% of costs associated with regulating the extractive industry are recovered through fees charged to industry. This represents a shortfall of around \$1.59 million per annum.

The existence of this shortfall is counter to Victorian Government policy and requirements in the *Cost Recovery Guidelines* that regulatory fees should be set on a full cost recovery basis to ensure that efficiency and equity objectives of government are being met.

2.4 Risk of non-intervention

The key risk of non-intervention is the continuance of the present situation where taxpayers are subsidising the cost of regulating the extractive industry. This subsidy is approximately \$1.6 million per annum.

The implications of this are an inefficient and inequitable allocation of resources. The existing level of fees does not send the right signals to the extractive industry regarding the resources used to allow regulated extractives activities to take place. Moreover, parties that do not benefit or take part in regulated extractives activities are currently paying the cost.

2.5 Objectives of intervention

The objective of the proposed changes to the Extractive Regulations is to prescribe fees to recover the costs of regulating the extractive industry, in alignment with general government policy and cost recovery principles.

3 Options to achieve the objectives

This chapter outlines the different options that have been considered with regard to applying fees based on cost recovery for extractive industries

3.1 Introduction

As outlined in the Victorian Guide to Regulation, in the case of RISs prepared for fees and charges, the range of different options is narrower than for other types of regulations and is likely to include consideration of the following:

- Different levels of regulatory activity that are to be funded through fees and charges
- Different types of fee structures
- Different levels of cost recovery (including 100% cost recovery).¹⁰

For the purposes of this RIS, the fee options focus purely on different fee structures. As no changes are required to the non-fee aspects of the Extractive Regulations, the fee options do not explore different levels of regulatory activity. Moreover, there is no strong economic rationale for anything less than 100% cost recovery for fees under the Extractive Regulations, so options for different levels of cost recovery are not explored. However, an approach to transitioning in large fee increases is outlined in the preferred option chapter.

Three options have been considered. They are:

- The base case - the existing fee structure
- Option 1 - new structure with work authority annual fees based on nature of operation
- Option 2 - new structure with work authority annual fees based on production levels.

Each of these options is described in more detail below.

3.2 The base case

Cost-benefit analysis seeks to estimate the incremental or induced impacts to stakeholders that can be directly attributed to the proposed options. In order to do so, it is necessary to have some idea of what would have happened if none of these options were exercised – effectively if the current approach were maintained.

Broadly speaking, the current fee schedule consists of a range of transaction fees, some of which vary depending on the size/depth of the site/operation in question.

The table below sets out the existing fees charged under the Extractive Regulations.

¹⁰ Department of Treasury and Finance, (2011), Op cit.

Table 3.1: Existing fees under the Extractive Regulations (2011-12)¹

Description	Fee units	Amount
Fee for lodging a Work Plan.	31.0	\$379
Fee for application to vary a Work Plan	26.0	\$318
Fee for application of a Work Authority over an area of 5 hectares or more or greater than 5 metres In depth.	41.0	\$501
Fee for application of a Work Authority over an area not exceeding 5 hectares and not Exceeding 5 metres In depth.	10.0	\$122
Fee for request to vary a Work Authority	26.0	\$318
Fee for transfer of a Work Authority	16.0	\$196
Fee for an inspection of a Work Authority site of 5 hectares or more or greater than 5 metres In depth.	24.0	\$293
Fee for an inspection of a Work Authority site not exceeding 5 hectares and not exceeding 5 metres In depth	11.0	\$134

Notes: ¹Fees provided are for the 2011-12 year, as these are comparable with fee estimates generated elsewhere in this report which are based on costs incurred during 2011-12.

As noted in Appendix B, the current level of cost recovery is not consistent with the overarching principles of the *Cost Recovery Guidelines* which state that activities should be fully or partially recovered from individuals or businesses that benefit from these activities and/or give rise to the need for these activities. In addition to the level of cost recovery there are several significant limitations to the current fee structure. Table 3.3, Table 3.4 and Table 3.5 provide details of these limitations.

3.3 Option 1: New structure with work authority annual fees based on nature of operation

Under Option 1, the structure of fees under the Extractive Regulations and the associated level of cost recovery would change. In particular, a new structure and level of fees is proposed that avoids taxpayer subsidisation of extractive industry regulatory activities and minimises cross-subsidies between different participants in the extractive industry. The level of cost recovery under Option 1 is 100%.

In developing a structure for extractives fees, two guiding principles were considered:

- Fees should reflect the effort involved in the associated regulatory activity(ies)
- Fees should be higher for regulated entities that require a greater proportion of the overall regulatory effort and vice versa (i.e. cross subsidies should be avoided).

Based on discussions with DSDBI, extractives regulatory effort can be categorised into three broad areas:

- Processing of extractive industry work authority applications – includes a wide range of transaction-based activities that do not typically vary in effort depending on the nature of the regulated operation in question
- Assessment/approval of Work Plans – includes a narrow range of transaction-based activities that typically vary in effort depending on the nature of the regulated operation in question

- Compliance and enforcement – includes a broad range of ongoing activities that vary in effort depending on the nature of the regulated operation in question.

Activities included within these categories are outlined in Table 3.2. This framework is used as the basis for a proposed new fee structure. In outlining the details of the proposed new fee structure, the limitations of the existing structure are outlined below.

Table 3.2: Categorisation of extractives regulatory effort

Category	Cost recoverable activities	Variation in effort b/w cases	Activity type
Processing of applications and requests	<ul style="list-style-type: none"> • Processing new Extractive industry Work Authorities • Processing Work Authority variations / transfers 	Low	Transactional
Assessment / approval of Work Plans	<ul style="list-style-type: none"> • Assessing draft Work Plans • Endorsing new Work Plans • Approving new Work Plans • Approving Work Plan variations 	High	Transactional
Compliance and enforcement	<ul style="list-style-type: none"> • Undertaking site visits, site audits, inspections and investigations • Issuing notices • Complaints handling • Managing compliance with reporting and expenditure requirements • Assessing bond transactions and liabilities¹ • Processing annual returns¹ 	Med	Ongoing

Notes: ¹Although these activities could be classed as transactional in nature, it is assumed that they are more appropriately classed in this category as they are ongoing activities.

3.3.2 Proposed changes to fees for work authority applications

A limitation associated with the current fees for work authority applications is outlined in Table 3.3. The table also includes proposed changes to address this limitation.

Table 3.3: Limitation associated with current fees and proposed changes – work authority applications

Limitation	Proposed change
Extractive industry work authority application fees are expressed on an area/depth basis. However, DSDBI effort in processing these applications typically does not vary according to site size/depth.	Express these as a flat fee (i.e. not on a per ha/depth basis)

3.3.3 Proposed changes to fees for assessment/approval of Work Plans and Work Plan Variations

A limitation associated with the current fees for work authority applications is outlined in Table 3.4. The table also includes proposed changes to address this limitation.

Table 3.4: Limitations associated with current fees and proposed changes – Work Plans

Limitation	Proposed change
Currently all operators pay the same flat fee regardless of site characteristics etc. However, effort associated with assessing work plans varies depending on the nature of the regulated operation in question	Structure fees so that they vary depending on the nature of the operation in question (see below)

To reduce the risk of cross-subsidies between different classes of operations within the extractive industry, the structure of work plan fees should reflect differences in regulatory effort between these classes.

Options for varying fees based on the nature of regulated operation in question were developed through an extensive process of workshops with former DPI staff and discussions with industry. This process involved the development of a comprehensive list of different approaches and a discussion of the pros and cons of each. The comprehensive list was then narrowed down to determine a set of feasible proxy measures for inclusion in the proposed fee structure.

Having determined a set of feasible proxy measures for regulatory effort, DPI developed an approach to structuring work plan fees based on a combination of these proxy measures. In developing these approaches, DPI determined the degree to which regulatory effort varies between the different classes of sites/operations, as reflected in the fee relativities listed in the tables below.

The proposed structure for extractives work plan fees involves four key categories for classing operators starting from those that require the least regulatory effort (Category 1), to those that require the most (Category 4). The categories are based on three proxy measures for regulatory effort: size (small versus large), proximity to sensitive locations where high risk sites are within 200 metres of sensitive locations, medium risk sites are within between 200 to 500 metres of sensitive locations and low risk sites are more than 500 metres away from sensitive locations) and whether operations involve blasting. Table 3.7 provides a summary of the four categories that have been applied to the work plans and annual fees. The structure also involves higher fees for work plans where the underlying development requires a planning permit (statutory endorsement) or Environment Effects Statement.

It is proposed that the determination of the extent of sensitive locations within the 200m/500m distances will be measured from the perimeter of the Work Plan area, less any buffer zones. Sensitive locations owned by the tenement holder would not be counted. For a Work Plan variation, the point of reference would be the area covered by the relevant application. As such, if the variation relates to only one specific area within the larger Work Plan area, the point of measurement would be from the perimeter of that specific area. Guidelines will be developed to clarify this issue.

3.3.4 Proposed changes to fees for compliance and enforcement

A number of limitations associated with the current compliance and enforcement fees are outlined in Table 3.5. The table also includes proposed changes to address these limitations.

Table 3.5: Limitations associated with current fees and proposed changes – compliance and enforcement

Limitation	Proposed change
The cost of ongoing extractives compliance and enforcement activities are currently not recovered, and these costs tend to vary widely depending on the nature of the regulated operation in question	Introduce an annual fee for holders of an extractive industry work authority. Design the fee so that it varies depending on the nature of the regulated operation in question (see below)
DSDBI officers do not currently charge the fee for inspection of extractives sites for historical reasons (when these inspectors also undertook OHS inspections) and because the inspection process is intended to be educative	Recover these costs through a broader annual fee and discontinue the inspection fees

To reduce the risk of cross-subsidies between different classes of operations within the extractive industry, the structure of annual fees should reflect differences in regulatory effort between these classes.

Consistent with the above discussion for work plan fees, DSDBI developed an approach to structuring extractive industry work authority annual fees based on a combination of proxy measures of regulatory effort. As with fees for work plans, the proposed structure under Option 1 for extractive industry work authority annual fees involves four categories of quarry site based on three different proxy measures for regulatory effort: size (small versus large), proximity to sensitive locations (where high risk sites are within 200 meters of sensitive locations, medium risk sites are within between 200 to 500 meters of sensitive locations and low risk sites are more than 500 meters away from sensitive locations) and whether operations involve blasting.

3.3.5 Summary of proposed structure

The proposed fee structure for extractive industry fees is summarised in Table 3.6.

Table 3.6: Proposed fee structure

Fee type	What costs are covered	Proposed changes
Applications for work authorities	Covers the cost of processing extractive industry work authority applications	<ul style="list-style-type: none"> Charge a single flat fee per application (i.e. application fees would no longer be charged according to site area/depth)

Fee type	What costs are covered	Proposed changes
Work plans	Covers the cost of processing work plan approvals	<ul style="list-style-type: none"> Introduce fees for extractives work plans or work plan variations – to be charged according to the nature of the operation in question (details outlined above) Introduce a higher fee that applies for extractives work plans involving a planning permit (statutory endorsement) Introduce a higher fee that applies for work plans involving an Environmental Effects Statement
Annual fees	Covers the cost of ongoing monitoring, inspection, audit, compliance, complaint handling and bond assessment activities etc.	<ul style="list-style-type: none"> Introduce a new annual fee for extractive industry work authorities – to be charged according to the nature of the operation

The structure involves four key categories for classing operators starting from those that require the least regulatory effort (Category 1), to those that require the most (Category 4). The categories are based on three proxy measures for regulatory effort: size (small versus large), proximity to sensitive locations and whether operations involve blasting. The structure also involves higher fees for work plans where the underlying development requires a planning permit (statutory endorsement (SE)) or Environment Effects Statement (EES). Table 3.7 provides a summary of the four categories.

Table 3.7: Specification of Categories 1 - 4

Category	Corresponding Item Number(s) in Exposure Draft Regulations	Description
1 ¹	1	Small quarry, extractive industry work authority with an area of less than 5 hectares.
2 ²	2 and 4	Quarry with no 'sensitive locations' within 500 metres for blasting and 200 metres for no blasting (and an area of 5 hectares or more).
3	3	Quarry with no blasting involved, with 'sensitive locations' within 200 metres (and an area of 5 hectares or more).
4 ²	5	Quarry with blasting involved, with 'sensitive locations' within 500 metres (and an area of 5 hectares or more).

Source: DPI

Note: ¹Category 1 is only based on size. There are no additional blasting/sensitive location parameters. ²Due to technical legislative drafting practice, in the Exposure Draft Regulations "Category 2" (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, "Category 4" in the table above is represented by 'item 5' in each of the relevant fee tables in the Exposure Draft Regulations.

The fee estimates resulting from the analysis outlined in Appendices A and B are provided in Table 3.8, noting that the amounts are expressed in 2011-12 prices – consistent with the costs determined in the cost recovery analysis.

Table 3.8 Fees, including comparison with existing fees (amounts expressed in 2011-12 prices)

Fee description	Recoverable cost	No. / year	Proposed fee	Existing fee	% change
Fee for application of an extractive industry work authority	\$29,497	26	\$1,135	\$122 to \$501	126% to 828%
Fee for request to vary an extractive industry work authority	\$8,447	33	\$256	\$318	-19%
Fee for transfer of an extractive industry work authority	\$3,160	18	\$176	\$196	-10%
New annual fee for extractive industry work authority					
Cat. 1		160	\$255		
Cat. 2		523	\$1,276		
Cat. 3		124	\$2,552		
Cat. 4		77	\$3,828		
Total	\$1,319,371	884			
Average/existing fee ¹			\$1,493	N/A	N/A
New fee for initial application for an extractives Work Plan ²					
Cat. 1 (SE)		10	\$1,575		
Cat. 2 (SE) ⁵		20	\$3,936		
Cat. 3 (SE)		10	\$4,724		
Cat. 4 (SE) ⁵		8	\$9,448		
Cat. 1 (EES) ³		N/A	N/A		
Cat. 2 (EES) ^{4,5}		-	\$15,746		
Cat. 3 (EES) ⁴		-	\$15,746		
Cat. 4 (EES) ⁵		3	\$31,492		
Total	\$311,770 ³	51			
Average/existing fee ¹			\$6,113	\$379	1514%
New fee for application to vary an extractives Work Plan ²					
Cat. 1 (No SE or EES)		5	\$487		
Cat. 2 (No SE or EES) ⁵		21	\$1,217		
Cat. 3 (No SE or EES)		17	\$1,460		
Cat. 4 (No SE or EES) ⁵		3	\$2,920		
Cat. 1 (SE)		10	\$1,460		
Cat. 2 (SE) ⁵		20	\$3,894		
Cat. 3 (SE)		4	\$4,867		
Cat. 4 (SE) ⁵		16	\$9,735		
Cat. 1 (EES) ³		N/A	N/A		
Cat. 2 (EES) ^{4,5}		-	\$14,602		
Cat. 3 (EES) ⁴		-	\$14,602		
Cat. 4 (EES) ^{4,5}		-	\$29,204		
Total	\$329,276 ³	96			
Average/existing fee ¹			\$3,430	\$318	980%

Source: Deloitte analysis

Notes: ¹The amount provided in the fourth column represents the average across all fee categories. This is not a proposed fee, rather it is provided for comparative purposes and/or to provide an indication of what the fee would be if all applicants of

regulated entities were charged the same regardless of the nature of the operation in question.² Estimates of the cost and number of work plan fees relate to both extractives and minerals work plans as the fees were set so as to be consistent between both sectors.³ Work plan applications for small quarries do not typically involve an EES, so a fee in this category is not applicable.⁴ Work plan applications involving an EES have not been submitted in recent times by quarry operators in some categories. However, that is not to say that such applications are not possible in the future. As such, a fee has still been created for these categories.⁵ Due to technical legislative drafting practice, in the Exposure Draft Regulations “Category 2” (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, “Category 4” in the table above is represented by ‘item 5’ in each of the relevant fee tables in the Exposure Draft Regulations.

3.4 Option 2: New structure with work authority annual fees based on production levels

DSDBI considered alternatives to Option 1 that might be less complex, based on production levels; production levels could be expressed in value or volume. A volume-based fee would require the establishment of a large number of annual fee rates to cover the range of products (hard rock, rippable rock, sand, clay, dimensional stone, peat, silica, limestone etc.) based on assumptions about the degree of regulatory effort applied to each of the products. Issues arise where there may be a very large sand quarry which produces a lot of tonnage but is likely to be less intensively regulated because it is just undertaking extraction by excavator as compared to a hard rock quarry which may be producing similar volumes but would likely be more intensively regulated because of the site stability and blasting that is associated with such sites. DSDBI decided not to include production volume as an option in the RIS because it has no reason to believe that the complex and arbitrary production volume approach would be any better a proxy for regulatory effort than the proposed production value approach. The latter approach is significantly simpler as it removes the need to differentiate by product type and is better able to capture on-site processing and site complexities associated with blasting and site stability (noting that higher grade/value products tend to be deeper as they have not been weathered or exposed).

Under Option 2, fees would be structured in a consistent manner to the proposed fee structure outlined for Option 1 except that the extractive industry work authority annual fees would be based on production levels (as a proxy for regulatory effort). Consistent with Option 1, the level of cost recovery under Option 2 is 100%.

The annual production value categories proposed are:

- \$0 to \$100,000 in annual production value
- \$100,001 to \$500,000 in annual production value
- \$500,001 to \$1,000,000 in annual production value
- \$1,000,001 to \$5,000,000 in annual production value
- \$5,000,001 to \$10,000,000 in annual production value
- Greater than \$10,000,000 in annual production value.

The fees for application for work authorities and work plans under Option 2 are the same as Option 1.

Unlike Option 1, under Option 2 the extractive industry work authority annual fees are based on a single proxy for regulatory effort, namely production value, where the level of regulatory effort varies highly with the nature of the operation. Option 1 is a more accurate proxy. Given that the level of regulatory effort reflected in the extractive industry work authority annual fees is not as variable as for the assessment and approval of work plans (see table 3.2) it is appropriate to consider other, less complex and more transparent proxies such as production value. Production value is a good proxy for regulatory effort as it is able to capture aspects of the size and complexity of the operation and value adding of on-site processing.

Higher value products tend to be at greater depths as they are generally less weathered and deeper excavations tend to require greater regulatory oversight. Additionally, processing of extractive products on-site such as crushing, washing and grading adds value to the raw extracted product. This processing is captured by the work authority and is regulated by the department. Thus, production value incorporates both the inherent value of the product as well as the on-site processing of the product and this provides a good indication of the regulatory effort associated with the site. The production value approach is considerably simpler than Option 1 to implement and provides a high level of transparency to operators.

4 Determining the preferred option

This chapter outlines the methodology for assessing the various fee option and weighs up the different options according to common criteria.

4.1 Methodology for assessing the options

Consistent with standard practice for fees RISs, options for the fees are assessed using multi criteria analysis (MCA). The MCA technique is outlined in Box 4.1.

Box 4.1: Multi Criteria Analysis

MCA refers to a range of techniques to assess policy options against decision criteria. MCA enables options to be compared in a way that utilises quantitative and qualitative evidence fully. The approach enables the inclusion of a wider range of criteria — including social and environmental considerations for example — than used in a typical financial analysis. In addition, the approach is transparent — necessarily subjective judgements and assumptions made to determine options and criteria, and to assign scores and weights are made explicitly. The preferences of the decision maker reflected in these judgements and assumptions can be readily changed in a sensitivity analysis or to incorporate more robust indicators of community preferences.

4.1.1 Criteria

Consistent with the objectives of cost recovery, and effectiveness objectives more broadly, the following criteria are used to assess the options:

- **Efficiency** – Assesses the degree to which the option is consistent with the efficiency objective of cost recovery. Includes consideration of:
 - the level of cost recovery
 - whether the fees send the right signals to industry regarding the resources used to allow the regulated activity to take place
- **Equity** – Assesses the degree to which the option is consistent with the equity objective of cost recovery. Includes consideration of the principle that those with greater means might contribute proportionately more than those with lesser means, noting that any concessions provided on equity grounds should be funded through budget appropriations so as to avoid cross subsidies.
- **Effectiveness** – Assesses the degree to which the option addresses other cost recovery issues. Includes consideration of:
 - compliance and implementation issues (e.g. simplicity, transactions costs, appropriate legal authority and levels of evasion etc)
 - consistency with other policy objectives – importantly those around increasing investment in Victoria’s resources.

4.1.2 Base case

The base case represents a situation where DSDBI charges fees consistent with the existing fee schedule.

4.1.3 Weightings

The criteria are weighted as follows:

- Efficiency – 33.3%
- Equity – 33.3%
- Effectiveness – 33.3%

In the absence of a compelling reason to do otherwise, the criteria are weighted evenly.

4.1.4 Scale

The criterion rating scale has a range of –10 to +10, where a score of zero represents no change from the base case. A scale from -10 to +10 is preferred as it is easier to include more information on the choices made, thus resulting in a greater understanding of the proposal. The scale is outlined in more detail in Table 4.1.

Table 4.1: MCA scale

Score	Description
-10	Much worse than the base case
-5	Somewhat worse than the base case
0	No change from the base case
+5	Somewhat better than the base case
+10	Much better than the base case

4.2 Assessment of the options

An assessment of the options is provided below. Note that, under both options, fees would be structured in a consistent manner to the proposed fee structure outlined in Section 3.3 and the level of fees would reflect 100% cost recovery. The level of revenue would also be \$1.6 million per year (2011-12 prices) under both options. The only difference is how the proposed new extractive industry work authority annual fee is structured.

4.2.1 Option 1: New structure with work authority annual fees based on nature of operation

Under Option 1, the proposed new extractive industry work authority annual fee would involve four key categories for classing operators based on the nature of the operation in question. Fees under this option are outlined in Table 4.2. The assessment of this option is outlined below.

Table 4.2: Annual fee for extractive industry work authority (Option 1) in 2011-12 prices

Description	Fee
Small quarry, extractive industry work authority with an area of less than 5 hectares.	\$255
Quarry with no 'sensitive locations' within 500 metres for blasting and 200 metres for no blasting (and an area of 5 hectares or more).	\$1,276
Quarry with no blasting involved, with 'sensitive locations' within 200 metres (and an area of 5 hectares or more).	\$2,552
Quarry with blasting involved, with 'sensitive locations' within 500 metres (and an area of 5 hectares or more).	\$3,828

Source: Deloitte analysis

Efficiency

The proposed new fee structure and level of fees results in a significant increase in cost recovery such that all costs that should be recovered, are recovered. Moreover, bringing fees in line with 100 per cent cost recovery would send the correct signals to industry regarding the resources used to allow the extractives activities to take place. Given that the current level of extractives cost recovery is so low, less than 1%, the proposed new fee structure and level of fees will be a significant improvement in terms of efficiency. On this basis, efficiency is scored at +10 under this option relative to the base case.

Equity

In light of the fact that the existing fee structure and level of fees recovers less than 1 per cent of the costs associated with regulating the extractive industry, it is clear that taxpayers are subsidising the cost of regulating the extractive industry under the current fee arrangements. With a move to 100% cost recovery under the new fee structure, this taxpayer subsidy is reduced to zero.

Moreover, under Option 1, the proposed work plan and extractive industry work authority annual fees are based on the most accurate proxy measures for regulatory effort according to DSDBI, namely: size, proximity to sensitive locations and the existence of blasting operations. As such, these fee structures minimise the likelihood of cross-subsidies between different quarry operators and sites. On this basis, equity is scored at +10 under this option relative to the base case.

Effectiveness

The proposed new fee structure is more complicated than the existing fee structure as it attempts to minimise cross-subsidies between different quarry operators and sites. The use of three proxy measures makes the assessment more complex and less transparent for industry participants. As such, it is anticipated that implementation of the new fee structure will incur some transaction costs and will result in an increase in administrative effort for business and government to ensure compliance and ease of implementation.

On this basis, effectiveness is scored at+ 5 under this option relative to the base case.

4.2.2 Option 2: New structure with work authority annual fees based on production levels

Under Option 2, the proposed new extractive industry work authority annual fee would involve six key categories for classing operators based on the annual production value. Fees under this option are outlined in Table 4.3. The assessment of this option is outlined below.

Table 4.3: Annual fee for extractive industry work authority (Option 2) in 2011-12 prices

Description	Fee
\$0 to \$100,000 in annual production value	\$356
\$100,001 to \$500,000 in annual production value	\$712
\$500,001 to \$1,000,000 in annual production value	\$1,424
\$1,000,001 to \$5,000,000 in annual production value	\$5,698
\$5,000,001 to \$10,000,000 in annual production value	\$8,547
Greater than \$10,000,000 in annual production value	\$10,683

Source: Deloitte analysis

Efficiency

As the same level of costs are being recovered under this option relative to Option 1, and the structure is equivalent for most fees, efficiency is scored at the same level as Option 1 relative to the base case.

Equity

Table 3.2 identifies that regulatory effort associated with the assessment and approval of work plans has a high level of variation in effort between cases while the ongoing regulation costs, such as compliance and enforcement, as captured by the extractive industry work authority annual fees have a medium level of variation in regulatory effort between cases.

Under Option 2, the proposed extractive industry work authority annual fees are based on the annual value of production. It is understood that, although this is a useful proxy for regulatory effort, it is not as accurate as the categories under Option 1, which are based on size, proximity and blasting. As such, this fee structure is not as effective at minimising the likelihood of cross-subsidies between different quarry operators and sites. However, this approach also ensure that those with greater means might contribute proportionately more than those with lesser means. On this basis, equity is scored at +8 under this option relative to the base case.

Effectiveness

Production value is a useful proxy for regulatory effort as stated above. This approach is considerably simpler to implement and provides a high level of transparency. The implementation of the new fee structure will be associated with lower transaction costs and will result in less administrative effort for business and Government to ensure compliance and ease of implementation than Option 1.

On this basis, effectiveness is scored at +8 under this option relative to the base case.

4.2.3 Summary

A summary of the results of the MCA is provided in Table 4.4. On the basis of the scores discussed above and the assumed equal weightings for the criteria, Option 2 is the preferred option by a very slim margin.

Table 4.4: Summary of MCA results

Criteria	Weighting	Base case	Option 1	Option 2
Efficiency	33.3 per cent	0	+10	+10
Equity	33.3 per cent	0	+10	+8
Effectiveness	33.3 per cent	0	+5	+8
Weighted total	100 per cent	0	+8.3	+8.6

5 Preferred option

This chapter provides a summary of the preferred option including implementation issues and the evaluation strategy.

5.1 Summary of the preferred option

Based on the analysis in Chapter 4 of this RIS, the preferred option is Option 2 – the new structure with extractive industry work authority annual fees based on production levels. In summary, the preferred option includes the proposed fee structure outlined Section 3.3 with an extractive industry work authority annual fee using six key categories for classing operators based on the annual production value.

This conclusion is made on the basis that Option 2:

- achieves 100% cost recovery;
- improves equity by reducing the level of cross subsidisation; and
- is transparent and efficient to implement.

5.1.1 Determining the fee structure

The fee estimates resulting from the analysis outlined in Appendices A and B are provided in Table 5.1, noting that the amounts are expressed in 2011-12 prices – consistent with the costs determined in the cost recovery analysis. The table also provides a comparison with existing fees charged in 2011-12. The level of revenue would be \$1.6 million per year (2011-12 prices) under these fees.

Table 5.1: Proposed fees, including comparison with existing fees (amounts expressed in 2011-12 prices)

Fee description	Recoverable cost	No. / year	Proposed fee	Existing fee	% change
Fee for application of an extractive industry work authority	\$29,497	26	\$1,135	\$122 to \$501	126% to 828%
Fee for request to vary an extractive industry work authority	\$8,447	33	\$256	\$318	-19%
Fee for transfer of an extractive industry work authority	\$3,160	18	\$176	\$196	-10%
New annual fee for extractive industry work authority					
\$0 to \$100,000		579	\$356		
\$100,001 to \$500,000		135	\$712		
\$500,001 to \$1,000,000		41	\$1,424		
\$1,000,001 to \$5,000,000		70	\$5,698		
\$5,000,001 to \$10,000,000		33	\$8,547		
Greater than \$10,000,000		26	\$10,683		
Total	\$1,319,371	884			
Average/existing fee ¹			\$1,493	N/A	N/A

New fee for initial application for an extractives Work Plan ²					
Cat. 1 (SE)		10	\$1,575		
Cat. 2 (SE) ⁵		20	\$3,936		
Cat. 3 (SE)		10	\$4,724		
Cat. 4 (SE) ⁵		8	\$9,448		
Cat. 1 (EES) ³		N/A	N/A		
Cat. 2 (EES) ^{4,5}		-	\$15,746		
Cat. 3 (EES) ⁴		-	\$15,746		
Cat. 4 (EES) ⁵		3	\$31,492		
Total	\$311,770 ³	51			
<i>Average/existing fee</i> ¹			\$6,113	\$379	1514%
New fee for application to vary an extractives Work Plan ²					
Cat. 1 (No SE or EES)		5	\$487		
Cat. 2 (No SE or EES) ⁵		21	\$1,217		
Cat. 3 (No SE or EES)		17	\$1,460		
Cat. 4 (No SE or EES) ⁵		3	\$2,920		
Cat. 1 (SE)		10	\$1,460		
Cat. 2 (SE) ⁵		20	\$3,894		
Cat. 3 (SE)		4	\$4,867		
Cat. 4 (SE) ⁵		16	\$9,735		
Cat. 1 (EES) ³		N/A	N/A		
Cat. 2 (EES) ^{4,5}		-	\$14,602		
Cat. 3 (EES) ⁴		-	\$14,602		
Cat. 4 (EES) ^{4,5}		-	\$29,204		
Total	\$329,276 ³	96			
<i>Average/existing fee</i> ¹			\$3,430	\$318	980%

Source: Deloitte analysis

Notes: extractive industry¹The amount provided in the fourth column represents the average across all fee categories. This is not a proposed fee, rather it is provided for comparative purposes and/or to provide an indication of what the fee would be if all applicants of regulated entities were charged the same regardless of the nature of the operation in question. ²Estimates of the cost and number of work plan fees relate to both extractives and minerals work plans as the fees were set so as to be consistent between both sectors ³Work plan applications for small quarries do not typically involve an EES, so a fee in this category is not applicable. ⁴Work plan applications involving an EES have not been submitted in recent times by quarry operators in some categories. However, that is not to say that such applications are not possible in the future. As such, a fee has still been created for these categories. ⁵Due to technical legislative drafting practice, in the Exposure Draft Regulations "Category 2" (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, "Category 4" in the table above is represented by 'item 5' in each of the relevant fee tables in the Exposure Draft Regulations.

As indicated, the proposed fees are significantly different to existing fee amounts. Many of the proposed fees represent a large increase relative to the existing fees. This is a result of the current significant under recovery of costs. This is particularly the case for:

- Fee for application for an Extractive Industry Work Authority (126 to 828 per cent increase, depending on the size of quarry)
- Fee for initial application for an extractives Work Plan (1,514 per cent increase)
- Fee for application to vary an extractives Work Plan (980 per cent increase).

In addition, there is one area where a new fee has been introduced that did not replace an existing fee. This is the case for the new annual fee for extractive industry work authority.

5.1.2 Fee schedule under the preferred option

The proposed fee schedule under the preferred option, expressed in fee units and 2011-12 prices, is provided in Table 5.2.

Table 5.2: Proposed fee schedule (fee units and 2011-12 prices)

Description	Fee units ¹	Amount (2011-12)
Fee for application of an extractive industry work authority	92.8	\$1,134
Fee for request to vary an extractive industry work authority	20.9	\$255
Fee for transfer of an extractive industry work authority	14.4	\$176
Annual fee for extractive industry work authority		
\$0 to \$100,000	29.1	\$356
\$100,001 to \$500,000	58.3	\$712
\$500,001 to \$1,000,000	116.5	\$1,424
\$1,000,001 to \$5,000,000	466.3	\$5,698
\$5,000,001 to \$10,000,000	699.4	\$8,547
Greater than \$10,000,000	874.2	\$10,683
Fee for initial application for a mining and extractives Work Plan		
Cat. 1 (SE)	128.9	\$1,575
Cat. 2 (SE) ³	322.1	\$3,936
Cat. 3 (SE)	386.6	\$4,724
Cat. 4 (SE) ³	773.1	\$9,447
Cat. 1 (EES)	N/A ²	N/A ²
Cat. 2 (EES) ³	1,288.5	\$15,745
Cat. 3 (EES)	1,288.5	\$15,745
Cat. 4 (EES) ³	2,577.1	\$31,492
Fee for application to vary a mining and extractives Work Plan		
Cat. 1 (No SE or EES)	39.8	\$486
Cat. 2 (No SE or EES) ³	99.6	\$1,217
Cat. 3 (No SE or EES)	119.5	\$1,460
Cat. 4 (No SE or EES) ³	239.0	\$2,921
Cat. 1 (SE)	119.5	\$1,460
Cat. 2 (SE) ³	318.6	\$3,893
Cat. 3 (SE)	398.3	\$4,867
Cat. 4 (SE) ³	796.6	\$9,734
Cat. 1 (EES)	N/A ²	N/A ²
Cat. 2 (EES) ³	1,194.9	\$14,602
Cat. 3 (EES)	1,194.9	\$14,602
Cat. 4 (EES) ³	2,389.9	\$29,205

Source: Deloitte analysis

Notes: ¹ When converting the fees outlined in Table 5.1 into fee units, the calculated fee units were rounded to one decimal place. ² Work plan applications for small mines/quarries do not typically involve an EES, so a fee in this category is not applicable. ³ Due to technical legislative drafting practice, in the Exposure Draft Regulations "Category 2" (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, "Category 4" in the table above is represented by 'item 5' in each of the relevant fee tables in the Exposure Draft Regulations.

5.1.3 Determining the collection method

Under the proposed new fee structure, the collection method is consistent with the existing arrangements. That is, fees are either collected on a per transaction basis, such as with application fees, or an annual basis, such as with annual fees. This collection method is regarded as the most efficient as fees can be collected at key stages of the regulatory process when regulated entities are already coming into contact with DSDBI, such as when applying for a work plan or when submitting an annual return.

5.1.4 Transitional period for industry

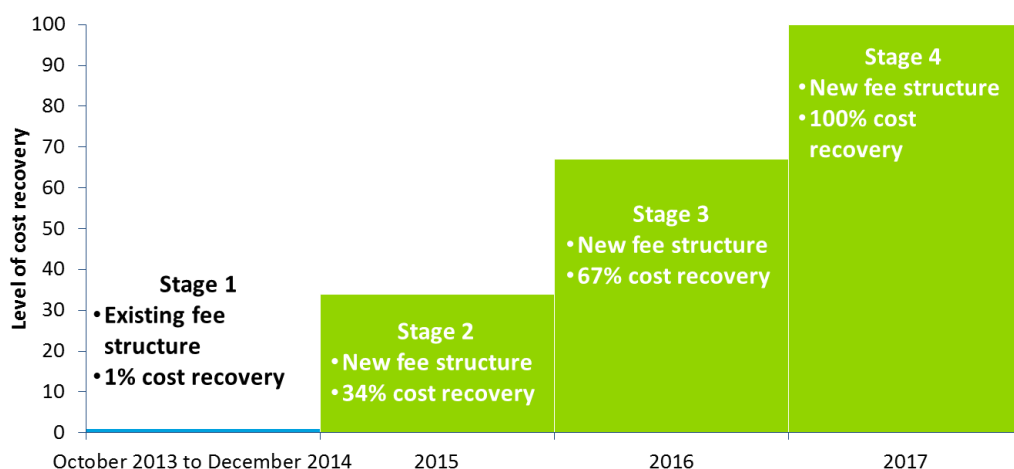
Given the magnitude of the increase in existing fees and the range of new fees being proposed under the preferred, this option will include a transition period to phase in the changes in fees. The transition period will involve four stages:

- Stage 1: The existing fee structure will be retained. The overall level of cost recovery will remain at less than 1% (from commencement of the Regulations to 31 December 2014).
- Stage 2: The new fee structure will be introduced. All fees will be scaled so that overall cost recovery is increased to 34% (from 1 January 2015 to 31 December 2015).
- Stage 3: Fees will be increased so that overall cost recovery is 67% (from 1 January 2016 to 31 December 2016).
- Stage 4: Fees will be increased so that overall cost recovery is 100%, signalling the end of the transition period (from 1 January 2017).

The increase in the level of cost recovery per year for Stages 2 to 4 represents a third of the difference between the current level of cost recovery and target level of cost recovery.

The figure below summarises the transition period and the timing of each of the stages.

Figure 5.1: Transition to new fee structure



The Cost Recovery Guidelines state that the structuring of cost recovery charges should include consideration of the potential impact on stifling investment. The transition period is considered important in securing the on-going trust of businesses investing in

Victoria and supporting the Victorian Government's policy objective of growing investment in the state.

The transition period will allow:

- Government time to educate businesses about the new fee arrangements; and
- businesses time to include the new fees and the fee increases into the financial planning processes.

Analysis for the minerals sector by the Australian Bureau of Agriculture and Resource Economics highlighted the importance of transparency in regulatory requirements in encouraging investment. These issues are of similar importance to the extractive industry. In particular, the lag prior to introducing the new fee structure is considered important to ensure transparency of regulatory requirements for business.

Table 5.3 provides a summary of the fee units to be charged during the transition period following the introduction of the proposed new fee schedule for all fees except for the annual fee for the extractive industry work authority.

Table 5.3: Transition to the proposed new fee schedule

Description	Fee units			In 2011-12 prices		
	2015	2016	2017	2015	2016	2017
Fee for application of an extractive industry work authority	31.4	62.1	92.8	\$384	\$759	\$1,134
Fee for request to vary an extractive industry work authority	7.1	14.0	20.9	\$87	\$171	\$255
Fee for transfer of an extractive industry work authority	4.9	9.6	14.4	\$60	\$118	\$176
Fee for initial application for a mining and extractives Work Plan						
Cat. 1 (SE)	43.7	86.3	128.9	\$534	\$1,054	\$1,575
Cat. 2 (SE)	109.1	215.6	322.1	\$1,333	\$2,635	\$3,936
Cat. 3 (SE)	131.0	258.8	386.6	\$1,600	\$3,162	\$4,724
Cat. 4 (SE)	261.9	517.5	773.1	\$3,200	\$6,324	\$9,447
Cat. 1 (EES)	N/A	N/A	N/A	N/A	N/A	N/A
Cat. 2 (EES)	436.4	862.5	1288.5	\$5,333	\$10,539	\$15,745
Cat. 3 (EES)	436.4	862.5	1288.5	\$5,333	\$10,539	\$15,745
Cat. 4 (EES)	872.9	1725.0	2577.1	\$10,667	\$21,080	\$31,492
Fee for application to vary a mining and extractives Work Plan						
Cat. 1 (No SE or EES)	13.5	26.6	39.8	\$165	\$326	\$486
Cat. 2 (No SE or EES)	33.7	66.7	99.6	\$412	\$815	\$1,217
Cat. 3 (No SE or EES)	40.5	80.0	119.5	\$495	\$977	\$1,460
Cat. 4 (No SE or EES)	81.0	160.0	239.0	\$989	\$1,955	\$2,921
Cat. 1 (SE)	40.5	80.0	119.5	\$495	\$977	\$1,460
Cat. 2 (SE)	107.9	213.3	318.6	\$1,319	\$2,606	\$3,893
Cat. 3 (SE)	134.9	266.6	398.3	\$1,649	\$3,258	\$4,867
Cat. 4 (SE)	269.8	533.2	796.6	\$3,297	\$6,516	\$9,734
Cat. 1 (EES)	N/A	N/A	N/A	N/A	N/A	N/A
Cat. 2 (EES)	404.7	799.8	1194.9	\$4,946	\$9,774	\$14,602
Cat. 3 (EES)	404.7	799.8	1194.9	\$4,946	\$9,774	\$14,602

Cat. 4 (EES)	809.5	1599.7	2389.9	\$9,892	\$19,548	\$29,205
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Source: Deloitte analysis.

Note: Due to technical legislative drafting practice, in the Exposure Draft Regulations “Category 2” (for work plans) has been split into two separate items (i.e. items 2 and 4 in each of the fee tables in Schedules 1AA and 1A of the Exposure Draft Regulations). Further, “Category 4” in the table above is represented by ‘item 5’ in each of the relevant fee tables in the Exposure Draft Regulations.

Table 5.4 provides a summary of the fee units to be charged during the transition period following the introduction of the proposed new fee schedule for the annual fees for the extractive industry work authority. The annual fees for the extractive industry work authority have been presented separately because they are payable each financial (not calendar) year. Therefore annual fees for the extractive industry work authority per financial year will be charged at a proportionate rate of units for each of the calendar years. For example the annual fees for the extractive industry work authority rate calculations for 2015-16 will be as follows:

Annual fee rate for 1 July 2015 - 30 June 2016 = 1/2 x (annual fee for 2015 calendar year + annual fee for 2016 calendar year)

Table 5.4: Transition to the proposed new fee schedule for annual fees for the extractive industry work authority

Description	Fee units calendar year			Fee units financial year				In 2011-12 prices			
	2015	2016	2017	Jan - Jun 2015	2015-16	2016-17	2017-18	Jan - Jun 2015	2015-16	2016-17	2017-18
Annual fee for extractive industry work authority											
\$0 to \$100,000	9.9	19.5	29.1	4.9	14.7	24.3	29.1	\$60	\$179	\$297	\$356
\$100,001 to \$500,000	19.7	39.0	58.3	9.9	29.4	48.7	58.3	\$121	\$359	\$595	\$712
\$500,001 to \$1,000,000	39.5	78.0	116.5	19.7	58.7	97.2	116.5	\$241	\$718	\$1,188	\$1,424
\$1,000,001 to \$5,000,000	157.9	312.1	466.3	79.0	235.0	389.2	466.3	\$965	\$2,872	\$4,756	\$5,698
\$5,000,001 to \$10,000,000	236.9	468.2	699.4	118.5	352.5	583.8	699.4	\$1,447	\$4,308	\$7,134	\$8,547
Greater than \$10,000,000	296.1	585.2	874.2	148.1	440.6	729.7	874.2	\$1,809	\$5,385	\$8,917	\$10,683

Source: Deloitte analysis

5.1.5 Revenue impact

Overall, the annual revenues (including net present value) under the proposed fees are provided in Table 5.5. These revenue streams are calculated in real terms, so do not include the effects of nominal price inflation.

Table 5.5: Estimated annual revenue yield under preferred option (\$ million)

Year	Revenue yield (\$ 2011-12)
2013-14	\$0.01
2014-15	\$0.01
2015-16	\$0.28
2016-17	\$0.81
2017-18	\$1.34
2018-19	\$1.60
2019-20	\$1.60
2020-21	\$1.60
2021-22	\$1.60
2022-23	\$1.60
Net present value (3.5% real discount rate)	\$8.19

Source: Deloitte analysis

It is important to note that the fees outlined in this RIS are for the year 2011-12. Fees in subsequent years would be higher. In particular, the Government, through the expression of fees in fee units within the Extractive Regulations, has the authority to increase fees on an annual basis according to the Treasurer's rate or higher to ensure fees are consistent with general price inflation and continue to achieve full *revenue yield* recovery. Increases above the Treasurer's rate would need to be approved by the Treasurer.

5.2 Enforcement considerations

It is a general requirement that fees must be paid before processes related to them can proceed. Thus, there is a high level of certainty that fee liabilities are actually met. For annual fees that would be paid at the end of the financial year (retrospectively), any enforcement issues would be dealt with in accordance with the principles that apply generally under the Department's Enforcement Policy and Enforcement Procedure, and Earth Resources Regulation Victoria's Compliance Policy (see <http://www.energyandresources.vic.gov.au/earth-resources/licensing-and-approvals/sand-stone-and-clay/work-authority-compliance>).

A failure to comply with legislation may lead to enforcement action. Enforcement of the MRSDA will be undertaken by inspectors employed by DSDBI. The enforcement mechanisms that may be used include promotion, education, inspections, audits, infringement notices and prosecutions.

5.3 Evaluation strategy

In recognition of the need for regulation which is appropriate, targeted and delivers the maximum benefits to industry and the State, DSDBI will engage in an evaluation strategy to monitor the effectiveness of the proposed fees.

DSDBI will continue to monitor the impacts of the fees over the life of the Extractive Regulations, and evaluate the outcomes for industry and Earth Resources Regulation

Victoria (ERRV), including any practical issues experienced in relation to implementation of the fees.

5.3.1 Information and data collection

To ensure that the quantum of fees remains appropriate into future years – including that any future efficiency gains arising through implementation of the Government’s response to the EDIC Inquiry are taken into consideration, DSDBI will continue monitoring of the level of effort required to administer the MRSDA and Regulations. DSDBI will collect information in relation to

- fees collected under the Extractive Regulations
- numbers of work authority, work plans, and work plan variations applications etc
- infringements and enforcement data, including site visits, complaints, notices issued and incidents recorded.

DSDBI will also establish, prior to commencement of the amended fees, mechanism(s) to ensure further data in relation to the effort required to process work authority applications and extractive work plans and variations is recorded. This will include, for example – as outlined in the Government response to the EDIC Inquiry – Government working in consultation with industry to identify indicators that will improve the monitoring of the health and activity of the sector and quality of available information. Note, it is anticipated that implementation of the Government’s response to the EDIC inquiry over the next two years will result in increased efficiencies in relation to the administration of the MRSDA and Regulations. In particular, imposing additional statutory time frames for certain processes under the Act, such as statutory endorsement, is likely to have an impact. Also, ensuring that work plans are drafted in risk-based terms and less prescriptively is intended to lead to less work plan variations and less complicated variations, thereby reducing the level of effort involved in assessment.

5.3.2 KPIs

DSDBI will use the following key performance indicators to measure the effectiveness of the fee amendments:

- (qualitative) tenements officers and industry feedback regarding the ease of administering the new fee structures
- time taken to undertake activities under the MRSDA and Regulations to which fees relate
- total fees recovered (and whether these are commensurate with costs incurred, subject to principles outlined in the Cost Recovery Guidelines).

5.3.3 Assessment Timeframe

In alignment with the *Subordinated Legislation Act 1994*, the Extractive Regulations (as amended for fee changes) will sunset after a ten year period of their making (2020) and an evaluation of the overall performance of the proposed Regulations will take place.

6 Impact on small business and competition

6.1 Impact on small business

It is Victorian Government policy to specifically consider the impact of proposed amendments to legislative proposals on small business in RISs. Where the costs of compliance with regulations comprise a significant proportion of business costs, small business may be affected disproportionately by such costs compared to large businesses.

In this case, smaller quarry operators may have a lower capacity to pay for the increases in fees relative to larger operators. However, there is no significant difference in the compliance burden between a small business and a large business. Lower value extractives businesses will, by virtue of the fee structure, pay lower fees than higher value businesses.

6.2 Competition assessment

It is Victorian Government policy that legislation which restricts competition will not be passed unless it can be demonstrated that:

- The benefits of the restriction, as a whole, outweighs the costs
- The objectives of the legislation can only be achieved by restricting competition.

In order to assess whether the proposed fee structure will restrict competition, the following 'competition test' has been applied.

Table 6.1: Impacts of new pricing structures on competition

Question	Assessment
Is the proposed measure likely to affect the market structure of the affected sector(s) – i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?	No
Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?	No
Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations etc)?	No
Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?	No
Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?	No
Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?	No

7 Consultation

This section details the consultation process that was undertaken in preparation for this RIS. It also outlines the results of the initial consultations

The proposed changes to Regulations analysed in this RIS were developed using information collected through consultations with industry stakeholders throughout this cost recovery and RIS process to ensure that the proposed changes were appropriate and met key industry and policy objectives.

When the consultation process commenced in 2012 it was proposed that the Mineral and Extractive Regulations would be consolidated through the processes for remaking the sunseting Mineral Regulations (this is reflected in some of the consultation processes outlined in the table below). However, due to some opposition from the extractive industry it was decided that this amalgamation would not be taken forward at this time. It is intended that this approach will be considered again during the next two to three years. DSDBI have reported that extractive industry representatives were open to the idea so long as the benefits to both industries can be demonstrated.

7.1 Industry stakeholder consultation strategy

The following targeted industry stakeholder consultation has been undertaken/is proposed for the purposes of the proposed Regulations and RIS.

Table 7.1: Industry stakeholder consultation timeframe

Timing	Consultation
Prior to first meeting	Through email correspondence outline the scope, process and timing for the cost recovery and regulatory reviews. Include broad prompting questions for consideration.
12 April 2012	Conduct first workshop to provide a high-level overview of internal issues raised for review. The objective of the workshop was to enable stakeholders to raise issues for consideration as part of the regulatory review as well as outlining proposed cost recovery methodology and responding to comments.
4 May 2012	DSDBI to provide a detailed outline of proposed reforms to industry stakeholder group for comment.
May – June 2012	DSDBI, through a variety of communications, discusses industry policy views and resolve policy issues with relevant stakeholders.
30 July 2012	A second meeting held to provide a general overview of proposed regulatory changes, update principles for cost-recovery review and respond to queries.
3 September 2012	A third meeting held to further discuss cost recovery and the regulation making process
December 2012	Interviews undertaken by RIS consultant with peak bodies to gather feedback on the costs and benefits to be included in the RIS

Timing	Consultation
At time of RIS publication (early 2014)	Communication update to authority holders and other industry representatives regarding the public release of proposed Regulations and RIS
During RIS submission period (early 2014)	Various forms of communication engaged to discuss submissions received during public submission period (as appropriate)
Following Regulations being made (mid 2014)	Publication of regulations, any relevant guidance and implementation material on DPI website and email communication to industry peak bodies.

In addition to these targeted meetings and consultations DSDBI will also provide information to all stakeholders through the following means:

- Discovery Magazine articles
- Updates in the DSDBI minerals and extractives operations newsletter
- Presentations at DSDBI regulation stakeholder meetings as appropriate
- Tenement agent briefing
- Updates to DSDBI website as appropriate at key stages in process

7.2 Consultation outcomes

Initial consultations on the proposed fee structure (including under Options 1 and 2) were undertaken with representatives from the Cement Concrete & Aggregates Australia (CCAA) and the Construction Material Processors Association (CMPA).

These consultations did not include reference to the proposed fee amounts as they were not yet finalised at the time of conducting these initial consultations. In light of this, both the CCAA and the CMPA reserved their comments on the impact of the fees until such time as they become aware of the proposed fee amounts.

These organisations were subsequently briefed by DSDBI in relation to the fee amounts and transition arrangements prior to finalisation of the draft Regulations and RIS. DSDBI have reported industry was supportive of the proposed transition arrangements.

Appendix A: Defining cost recoverable activities

This Appendix outlines the methodology for defining cost recoverable activities, the former DPI business units in scope of the RIS, the long list of activities included in the analysis and an analysis of the appropriateness of recovering the costs of these business units

Note on the activity analysis

The activity analysis was conducted for both the Extractive Regulations and the Mineral Regulations. As such, the analysis is broader than the focus of this RIS, which purely relates to the regulation of extractive industries. This has no bearing on the outcomes of the analysis in terms of extractives regulatory activities that are determined to be cost recoverable.

This analysis was based on information (including in relation to the organisational structure associated budget allocations) current as at June 2012, so does not reflect the subsequent 2012 restructure of divisions within the Energy and Earth Resources Group or the migration of activities from the former DPI to DSDBI. However, these structural changes have not had any material impact on the composition or work role of the business units included in the analysis. Nor have any indirect consequences of the restructure been identified to date.

Methodology

A desktop review of the MRSDA, the Mineral Regulations, the Extractive Regulations and the other documentation provided by DPI was undertaken to determine a long list of Minerals and Extractives activities undertaken by DPI that are in scope for the analysis of minerals and extractives cost recovery. This list was then refined based on discussions with staff from relevant areas of the former Energy and Earth Resources Branch (EERB) (now Earth Resources Regulation Victoria).

The list of activities was then assessed to determine the appropriateness of recovering costs associated with each of these activities. Consistent with the Cost Recovery Guidelines, this involved consideration of the following questions:

- Is the provision of the output or level of regulation appropriate?
- What is the nature of the output or regulation (including economic characteristics and key beneficiaries)?
- Who could be charged?
- Is charging feasible, practical and legal?
- Is full cost recovery appropriate?¹¹

¹¹ Department of Treasury and Finance, (2010), Op sit.

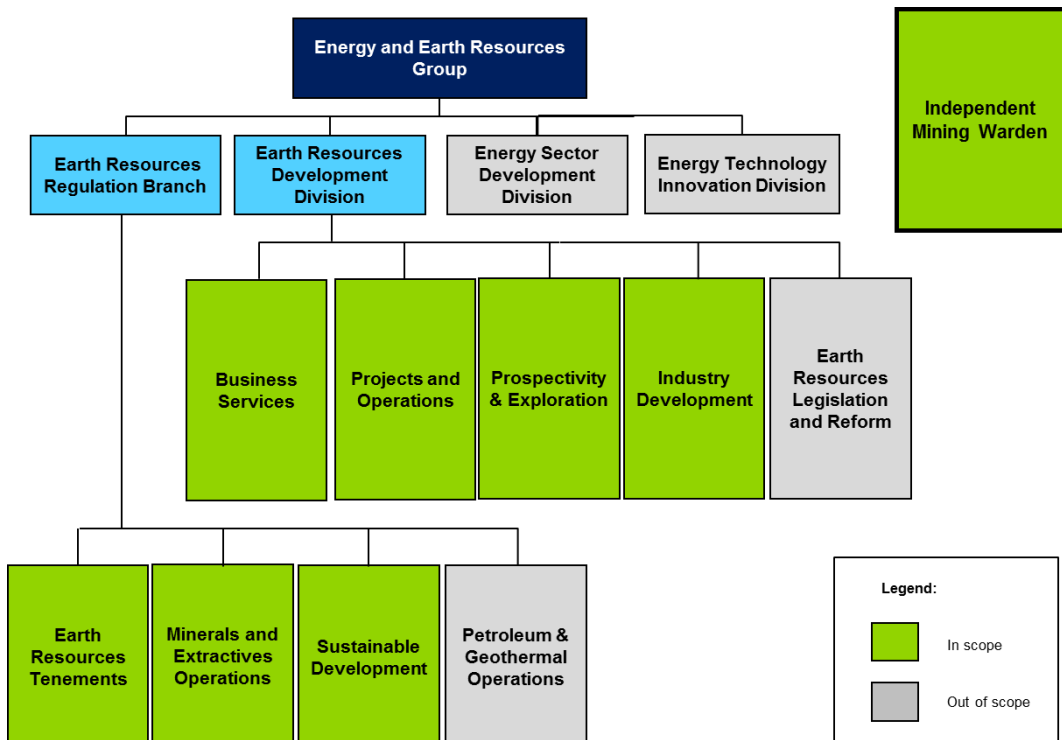
Business units in scope of the analysis

In determining a long list of minerals and extractives functions within DPI that are potentially cost recoverable, a preliminary assessment of all business units within the Energy and Earth Resources Group was undertaken to determine those areas that were clearly out of scope for the Review. The criteria used to determine business units that were out of scope were as follows:

- The business unit does not undertake functions that relate to the minerals or extractive industries
- The business unit undertakes functions that relate solely to policy, legislative or political processes that represent the broader role of government and are therefore not cost recoverable.

The results of this assessment are depicted in Figure A.1. The two energy-related branches are clearly out of scope of the Review. In terms of the Earth Resources Regulation Branch, all units are in scope with the exception of Petroleum and Geothermal Operations whose functions relate purely to the petroleum and geothermal industries. In terms of the Earth Resources Development Division, all units are in scope with the exception of Legislation and Reform whose functions relate purely to legislative reform and policy development.

Figure A.1: Business units in scope of the analysis*



Notes: *The analysis in this report was based on information (including in relation to the organisational structure associated budget allocations) current as at June 2012, so does not reflect the subsequent 2012 restructure of divisions within the Energy and Earth Resources Group, including the Earth Resources Regulation Branch. However, the restructure has not had any material impact on the composition or work role of ERB (now Earth Resources Regulation Victoria). No indirect consequences of the restructure have yet been identified. Any possible indirect consequences of the change (e.g. if greater efficiencies achieved

through the restructure) would be considered as part of ongoing review of the regulations, and ultimately when the Regulations are reviewed again prior to sunset.

Long list of minerals and extractives functions

Discussions were held with all business units in scope of the analysis to determine a long list of minerals and extractives functions that are potentially cost recoverable through fees and charges under the Minerals and Extractive Regulations. The long list is provided in Table A.1. A description of these functions is provided below.

Table A.1: Long list of minerals and extractives functions

Division	Business unit	Functions
ERRB	Earth Resources Tenements	Licencing and work authorities
		Reporting and expenditure compliance
	Minerals and Extractives Operations	Policy, legislative and project work
		Work plan approvals
		Auditing, inspections and enforcement
		Managing rehabilitation bond liabilities
		Complaints
		Community engagement
		Industry guidance
		Policy, legislative and project work
Sustainable Development	Development of guidelines	
	Liaising with other government departments	
	Community engagement (sustainability issues)	
	Policy, legislative and project work	
ERDD	Business Services	Earth resources information systems support
		Data management
		Earth resource information compliance
		Client services
		Day-to-day internal support functions
		Project-level facilitation
	Projects and Operations	Industry-level facilitation
		Coal resource planning and allocation (Clean Coal Victoria)
		Data analysis and technical input
	Prospectivity and Exploration	Assessment of mineralisation reports

Division	Business unit	Functions
Independent	Industry Development	Investment attraction Assessment of feasibility studies
	Mining Warden	Disputes Referrals from Minister to investigate Referrals for applications for waiver

Earth Resources Tenements

The Earth Resources Tenements unit has three key functions, discussed below.

Licensing and work authorities

This function involves all aspects of regulating the minerals industry through licensing. It also involves the approval of extractive industry work authorities.

A number of different licences are applicable to the minerals industry, namely exploration licences, retention licences, mining licences and prospecting licences. For mineral search activities undertaken by the general public or for recreation, Miners Rights or Tourist Fossicking Authorities apply.

Key activities undertaken within this function include:

- Processing and determining applications for new, renewed, varied, transferred, amalgamated, cancelled or surrendered licences – includes dealing with objections, native title issues, the Tenement’s Committee and the Minister/Delegate process
- Approving new, varied or transferred extractive industry work authorities
- Processing applications for a Miner’s Right or Tourist Fossicking Authority
- Processing payments for fees/rents, including following up any outstandings
- Processing annual activity and expenditure returns
- Processing rehabilitation bond transactions
- Providing copies of licences or work plans etc and access to the Mining Register.

Reporting and expenditure compliance

This function involves a number of activities necessary to ensure tenement and expenditure compliance and includes the processing of warning letters, enforcement actions etc.

Policy, legislative and project work

This function involves contributing to policy or legislative processes (such as ministerial briefings) where the need arises and undertaking discretionary projects.

Minerals and Extractives Operations

The Minerals and Extractives Operations unit has seven key functions, discussed below.

Work plan approvals

This function involves all aspects of regulating the operations of the minerals and extractive industries through the work plan process. Work plans contain all relevant information necessary to operate a mine/quarry on a particular site. If implemented as intended, all community and/or environmental risks should be minimised.

Key activities undertaken within this function include:

- Approving work plans or variations to work plans
- Providing advice on the operational aspects of work plans
- Consulting with other government departments or agencies, including referring work plans to other agencies (e.g. the Department of Sustainability and Environment or the Environment Protection Agency) to obtain input prior to endorsement
- Ensuring work plan applicants have completed all requirements of DPI, other agencies and any relevant legislation – requirements include completing an Environmental Effects Statement or applying for a planning permit where required, meeting the requirements of native vegetation offset management and environmental remediation.

In some instances, work plan approvals also involve assessment of ‘impact statements’ that can be requested by the Minister under Section 41A of the MRSDA if the Minister is of the opinion that proposed exploration work under a work plan or an application to vary an approved work plan lodged with the Department Head by a licensee will have a material impact on the environment.

Auditing, inspections and enforcement

Inspectors from the Minerals and Extractive Operations unit visit minerals and extractive industry project sites to ensure recipients of licences and work authorities are complying with their approved work plan. Inspectors are located in five key districts throughout Victoria and have Power of Entry to enter sites when following up issues or for other reasons.

Inspectors undertake audits to check compliance with work plan requirements generally as well as random targeted audits relating to specific high risk issues such as dust or noise. Site inspection frequency might vary from a yearly inspection for high risk sites, to every two-five years for lower risk sites, or only in response to a complaint for very low risk sites. This includes monitoring that requirements of the site’s rehabilitation plan are being met, including compliance with progressive rehabilitation requirements.

Managing rehabilitation bond liabilities

This function involves a number of bond liability management activities, including review of rehabilitation bonds on a regular basis to ensure that liabilities are reflected in bonds held by the Government.

Complaints

This function involves responding to specific complaints lodged by community or other stakeholders in relation to a specific exploration, mine or quarry site.

Community engagement

This function involves engaging with the community on specific issues associated with the operation of mines/quarries (e.g. convening Environmental Review Committees and public information sessions on coal seam gas).

Industry guidance

This function involves the provision of guidance to industry on work plan processes/requirements and associated regulatory obligations. The focus is on providing guidance on how to comply with work plan requirements and industry best practice approaches.

Policy, legislative and project work

This function involves contributing to policy or legislative processes (such as ministerial briefings) where the need arises. It also involves contributing to special projects, such as current work within the Minerals and Extractives Operations unit on the Mine Stability Levy.

Sustainable Development

The Sustainable Development unit has three key functions, discussed below.

Development of guidelines

This function involves the development of industry guidelines on government environment and sustainability policies/regulations applicable to earth resources industries.

Liaising with other government departments

This function involves liaising with other government departments in relation to environment and sustainability aspects of government policy initiatives and legislative proposals.

Community engagement activities (sustainability issues)

This function involves community engagement policy and guideline development, providing internal advice and support, and engaging with the community on specific environmental or sustainability issues associated with the operation of mines/quarries.

Policy, legislative and project work

This function involves contributing to policy or legislative processes (such as ministerial briefings) where the need arises. It also involves contributing to special projects, such as current work within the Minerals and Extractives Operations unit on the Mine Stability Levy.

Business Services

The Business Services unit has five key functions, discussed below.

Earth resources information systems support

This function involves maintenance and configuration of DPI earth resources information systems and applications, including geological systems such as GeoVic. A key objective of

such systems is to make spatial information available to industry with the intention of attracting further investment to the State.

Data management

Key activities undertaken within this function include:

- Data extraction – involves the extraction of both industry and internal DPI data (ensures earth resources datasets are kept up to date)
- Archiving – includes cataloguing, storage, maintenance, transcription and conversion to public record of industry data
- Data management – involves support for internal and industry data collection activities and work around new products or marketing/communications potential
- Management of DPI’s library of geological core samples.

Earth resource information compliance

This function involves working with the Tenements unit to ensure that required data is provided as part of the reporting obligations for exploration and mining licence holders. The overall aim is to ensure the Government continues to gain knowledge of State-owned resources.

Client services

This function involves responding to internal and external data requests and includes general public or industry requests for online data, publications, GeoVic content updates, data packages, maps or other geological data (requests mainly relate to petroleum data). This service includes responding to rural conveyancing land information requests (e.g. provision of information about mine hazards or existing licences applicable to a particular property or properties nearby).

Day-to-day internal support functions

This function involves internal finance activities (accounts payable and budgeting etc), preparing Budget and Expenditure Review Committee bids, expense management (travel, conferences etc), maintaining the training register and managing office stationary and equipment etc.

Project and Operations

The Project and Operations unit has three key functions, discussed below.

Project-level facilitation

This function involves assisting companies during approval processes, either for new mining projects or the expansion of existing projects. The Project and Operations unit facilitates this process by providing guidance or strategic advice and ensuring an efficient process with minimised delays. When a mining company is going through an Environmental Effects Statement process, this involves assisting in coordinating internal DPI stakeholders and acting as the lead liaison between the proponent and the Government generally. The unit is currently assisting industry with four projects, but expects there to be more in the future – particularly those involving coal seam gas, mineral sands and newly allocated coal.

This service is provided at the discretion of DPI and is restricted to mining projects at a size that is of strategic importance to the State, and to quarrying at the industry level. This service is provided in recognition that the approvals process for large projects is complex, particularly given the need to deal with multiple agencies, thus requiring facilitation by DPI to ensure any associated investment barriers are minimised.

Industry-level facilitation

This function involves assisting the Government to think about industry needs. For example, the unit recently undertook an exercise which involved mapping the approval process into Microsoft Gantt charts to enhance industry's understanding of the process. These actions are generally focussed on mining and extractive industries.

This function includes working to ensure that the processes developed as part of other government initiatives (e.g. a change in Environment Protection Agency guidelines for noise reduction) are the most efficient and effective for industry. This includes the review of relevant legislation and regulations.

Coal resource planning and allocation (Clean Coal Victoria)

Clean Coal Victoria undertakes strategic resource planning to maximise the value of Victoria's coal resource. It provides technical input and advice on mine sites, considers planning of the resource from a land use perspective – including working with other Departments – and considers requirements to facilitate resource development (e.g. infrastructures such as roads). It also investigates the coal resource through field activities and analysis, and undertakes regional environmental planning. An important component of Clean Coal Victoria's work is stakeholder engagement, which involves consulting with local councils and communities to inform resource development decisions.

Clean Coal Victoria is also involved in the coal allocation process. As coal is a resource owned by the Crown, it is allocated by competitive tender. Clean Coal Victoria contributes to this process through activities such as undertaking a market assessment of potential interest in coal allocation, ahead of a tender release, and assessing tenders once they come submitted by industry.

Prospectivity and Exploration

The Prospectivity and Exploration unit has two key functions, discussed below.

Data analysis and technical input

This function involves technical analysis and engagement with resource development companies around Victorian geology with the aim of identifying and exploiting unknown resources.

Key activities undertaken within this function include:

- Updating GIS systems – includes the input of data captured in mineralisation reports submitted by exploration licence holders
- Resource planning and management (stewardship) – assisting to understand the earth resources endowments and geology of the State, including what resources exist, where resources are located, what can be done with them by the State, how they have and should be managed, and how that might impact mining communities

etc. The unit also inputs into considerations of issues such as strategic actions required to develop resources, e.g. freeway planning

- Industry investment – using the knowledge gained to develop prospectivity analyses and presenting prospective resources to industry to encourage exploration work.

Assessment of mineralisation reports

This is a new function and involves the assessment of, and provision of advice in relation to, mineralisation reports under Mining or Retention Licences.

Industry Development

The Industry development unit has two key functions, discussed below.

Investment attraction

This function involves working with development companies around known State resources with the aim of attracting investment to further develop those resources. Activities undertaken by the unit include targeted and general marketing and the development of strategies for different commodities.

Assessment of feasibility studies

This is a new function and involves the assessment of, and provision of advice in relation to, feasibility studies under Mining or Retention Licences.

Mining Warden

The MRSDA (Section 96) enables the Governor in Council to appoint a mining warden for a term not exceeding three years. The mining warden is an independent statutory office holder. The Act confers wide-ranging powers to assist a mining warden in performing the statutory functions. Administration of the office of the mining warden is attended to by a Registrar and Deputy Registrar.

There are currently three functions conferred by the MRSDA on a mining warden.

Disputes

Under section 97 (1) of the MRSDA, disputes can be referred to a mining warden. The mining warden must then investigate the dispute, attempt to settle, or arbitrate in relation to, the matter in dispute and, where appropriate, make recommendations to the Minister concerning those matters. When performing this function, a mining warden may ask parties to first participate in mediation. If it appears settlement is not possible, the mining warden will proceed to arbitration if the circumstances indicate that course is a realistic one to pursue.

Referrals from Minister to investigate

Under section 98 of the MRSDA, the Minister or the Department Head may refer a matter to a mining warden for investigation, report and recommendation.

Referrals for applications for waiver

Under section 25A of the MRSDA, certain applications for waiver of an exploration licence holder's consent must be referred by the Minister to a mining warden for a recommendation as to whether a waiver should be granted.

Efficient cost base

Before considering the appropriateness of cost recovery arrangements, it is important to ensure that the level and standard of provision of government goods and services, and the nature of any regulation imposed by government, are the minimum necessary to meet the needs of the community and achieve the Government's objectives. That is, cost recovery should be based on 'efficient costs' of the activity and should avoid:

- Gold plating – where unnecessarily high standards of facilities are adopted in the provision of goods and services, with government agencies imposing their own preferred levels of service, rather than the lower levels that would be sufficient to meet client needs or achieve government objectives
- Cost padding – where costs are inflated above efficient levels, motivated by the knowledge that all costs can be recovered
- Regulatory creep or over-regulation – where additional or unnecessary regulation is imposed without adequate scrutiny. Regulatory creep or over-regulation can impose significant additional costs that are recovered from affected parties.

Given that the level of regulation of the sector under the proposed regulations will be in line with existing levels, it is useful to consider if there are any historical indications of any of the inefficiencies identified above. In 2006-07 the total expenses for the Minerals and Extractives Operations, Earth Resources Tenements, ERRB Director and administrative staff was \$5.5 million. Adjusting this to 2011-12 dollars, if this level of expenditure were maintained, 2011-12 expenditure would be expected to be in the order of \$6.4 million. However, actual expenditure in 2011-12 was \$6.0 million. This provides an argument against the existence of regulatory creep or gold plating in the relevant areas of DSDBI. In addition, the historic under recovery across the sector provides little incentive for the DSDBI to cost pad.

Comparisons of costs between states for extractive industry fees and charges are difficult to make, because the states have very different regimes for fees and charges and different classification of materials between extractives and minerals (for example, NSW classifies peat as a mineral while in Victoria it is classified as an extractive product).

The following comparison has been made with South Australia for a medium to large-sized, hard rock, urban/semi-urban quarry. Typically, for such a quarry in Victoria, the extractive industry work authority will vary in size from 50-100 ha, though may be as small as 20 ha and as large as 500 ha. The cost comparison is based on a 20 ha, 50 ha, 100ha and 500 ha extractive industry work authorities, with the South Australian costs being:

- application fee - \$2,769
- annual fee - \$139
- annual rent - \$46 per ha.

Table A.2: Comparison of fees with South Australia

	Total cost over 10 years (\$)	Average annual cost (\$)
Victoria		
Cat 1, SE ¹	\$11,957	\$1,196
Cat 2, SE ²	\$23,808	\$2,381
Cat 3, SE ³	\$115,816	\$11,582
Cat 4, EES ⁴	\$173,732	\$17,373
South Australia		
20 ha	\$13,359	\$1,336
50 ha	\$27,159	\$2,716
100 ha	\$50,159	\$5,016
500 ha	\$234,159	\$23,416

Note: a desktop review by DSDBI indicated that approx. 18% of extractive industry work authorities could be classified as Cat 1, 59% as Cat 2, 14% as Cat 3 and 9% as Cat 4. Table 3.7 provides a description of the work plan categories.

Cat 1 scenario, SE with a production value \$100 001 - \$500 000, costs being: Application fee - \$1135, Annual fee - \$876 by 10 years = \$8760, Initial WP fee (SE) - \$1575, WP variation fee (no SE or EES) - \$487

Cat 2 scenario, SE with a production value \$500 001 - \$1 000 000, costs being: Application fee - \$1135, Annual fee - \$1752 by 10 years = \$17520, Initial WP fee (SE) - \$3936, WP variation fee (no SE or EES) - \$1217

Cat 3 scenario, SE with a production value \$5 – 10 million, costs being: Application fee - \$1135, Annual fee - \$10509 by 10 years = \$105090, Initial WP fee (SE) - \$4724, WP variation fee (SE) - \$4867

Cat 4 scenario, EES with a production value \$10+ million, costs being: Application fee - \$1135, Annual fee - \$13137 by 10 years = \$131370, Initial WP fee (SE) - \$31492, WP variation fee (SE) - \$9735

While it is not easy to draw direct comparisons between the South Australian fee structure and the proposed Victoria fee structure, based on the information above, Victoria's more 'simple' (Cat 1 scenario) operations are in line with the smallest South Australian operations and Victoria's most 'complex' (Cat 4 scenario) operations are charged marginally less than a very large South Australian site.

Based on the benchmarking exercise undertaken, DSDBI concludes that the cost base (and proposed resultant fees) is not disproportionate to other jurisdiction(s) (noting the limitations on the comparison exercise explained above).

Appropriateness of cost recovery

The appropriateness of cost recovery is assessed according to the framework outlined in the Cost Recovery Guidelines.¹² This framework requires consideration of five key questions to determine the overall appropriateness of cost recovery, as follows:

- Is the provision of the output or level of regulation the minimum required to meet the objective?
- What is the nature of the output or regulation?
- Who could be charged?
- Is charging feasible, practical and legal?

¹² Ibid.

- Is full cost recovery appropriate?

These questions are addressed below.

In answering these questions, the functions of the long-listed business units are grouped together into two broad categories:

- Regulatory functions – mostly delivered by the Earth Resources Regulation Branch
- Policy delivery functions – mostly delivered by the Earth Resources Development Division.

Is the provision of the output or level of regulation the minimum required to meet the objective?

Regulatory functions

The Government has tabled a response to the EDIC Inquiry. The EDIC Inquiry commenced in February 2011. The Inquiry focuses on barriers to minerals development, in particular the regulatory environment, approaches to increasing investment in mineral exploration and development and land use conflicts.

In response to the EDIC Inquiry the Victorian Government has committed \$19.2 Million over four years in the 2013-14 budget to implement the following:

- establishing Minerals Development Victoria as a one stop shop to facilitate major earth resources projects and reduce burden on proponents;
- implement a range of initiatives to reduce regulatory burden imposed in legislation;
- building community confidence through greater engagement and clearer communication of information;
- provide additional funding for geoscience research and greater investment attraction; and
- taking steps to improve mechanisms for maintaining appropriate access to extractive resources while supporting ongoing development and best land use.

Implementation of the Government response to EDIC will involve amendments to the MRSDA, Mineral Regulations and the Extractive Regulations, publication of guidelines and other informational material and introduction of new administrative procedures. Any efficiency gains achieved through these amendments (including for example, as a result of new statutory time frames and implementation of 'risk-based' work plans) will be reflected in future fee amendments, as will any data that indicates that the fee levels do not reflect the actual costs incurred (i.e. if level of cost recovery too low or too high).

Policy delivery functions

The provision of policy delivery outputs by the Earth Resources Development Division is at the discretion of DPI. The level of provision of such outputs would depend on available resources and the degree to which the government is committed to managing/developing the State's earth resources and supporting the minerals and extractive industries. As discussed below, the majority of these functions are not cost recoverable.

What is the nature of the output or regulation?

The nature of the output or regulation is discussed separately for each of the long-listed business units below. Consistent with Cost Recovery Guideline requirements, the nature of the output or regulation is assessed according to the purpose, context, other policy objectives, economic characteristics and beneficiaries of each of the long-listed functions.¹³

In assessing the economic characteristics, the framework and definitions outlined in the Cost Recovery Guidelines were used. These definitions are outlined in table A.2.

A summary of the nature of the output/regulation for each business unit is provided in Table A.2. Note that functions are grouped together in the instance that they have similar characteristics.

Table A.3: Framework for determining the economic characteristics of government outputs or regulation

Type of good	Description
Pure public good	<p>Pure public goods display the following characteristics:</p> <ul style="list-style-type: none"> • they are non-excludable, which means that anyone can have access to them once they are provided; and • they are non-rivalrous, which means that any person can benefit from them, without diminishing anyone else's enjoyment. <p>Examples include national defence and street-lighting.</p>
Selective public good	<p>Selective public good are public goods that benefit specific groups.</p> <p>For example, the groups may be differentiated by:</p> <ul style="list-style-type: none"> • area of interest (e.g. all Victorian beef producers); or • geographical region (e.g. wine grape growers in the Yarra Valley). <p>Examples include basic strategic research and development of new crop Varieties.</p>
Club goods	<p>Club goods are those where people can be excluded from its benefits at low cost (unlike a public good) but its use by one person (within the 'club') does not detract from its use by another (at least until congestion becomes an issue). The key difference between club good and (selective) public goods is that the ability to exclude implies the feasibility of charging for use.</p> <p>Examples include cable television, private schools and national parks (where entrance fees can be charged)</p>
Private goods	<p>Private goods display the following characteristics:</p> <ul style="list-style-type: none"> • they are excludable – it is physically, technically and/or legally possible to prevent use by another party; and • they are rivalrous, which means consumption/benefit by one party rules out consumption/benefit by another. <p>Examples include birth certificates and research and development tailored to a specific party</p>

¹³ Ibid.

Merit goods	<p>Merit goods have the property that the community as a whole desires a higher use of the output than would be likely than if they were charged at full cost. Similarly, some goods display positive externalities because they also benefit unrelated third parties.</p> <p>Examples include education, healthcare, exercise and the arts</p>
Government regulation	<p>There is often a need for 'government regulation' in order to reduce the risk of harm or damage that may arise to consumers, the whole community or the environment.</p> <p>Regulation can be justified on the basis that it address market failures such as negative externalities, inadequate information and market power.</p>

Source: Department of Treasury and Finance, (2010), *Cost Recovery Guidelines*, Melbourne, p.15.

Table A.4: Nature of output/regulation, by business unit

Business unit	Functions	Purpose	Context	Other policy objectives	Economic characteristics	Primary beneficiaries
Earth Resources Tenements	Licencing and work authorities; reporting and expenditure compliance	Allocation of rights and regulation of tenements	Gov't commitment to effective regulation	None	Government regulation	<ul style="list-style-type: none"> • Earth Resources Industry • Environment • Those located nearby
	Policy, legislative and project work	Policy and legislative development	General role of Government	Various	Pure Public Good	<ul style="list-style-type: none"> • Broader society
Minerals and Extractives Operations	Work plan approvals; auditing, inspections and enforcement; rehab. Bonds; industry guidance	Regulation of mine/quarry operations	Gov't commitment to effective regulation	None	Government regulation	<ul style="list-style-type: none"> • Earth Resources Industry • Environment • Those located nearby
	Complaints; community engagement	Engage with community	General role of Government	None	Government regulation and Pure Public Good	<ul style="list-style-type: none"> • Broader society • Those located nearby
	Policy, legislative and project work	Policy and legislative development	General role of Government	Various	Pure Public Good	<ul style="list-style-type: none"> • Broader society
Sustainable Development	Development of guidelines; liaising with other department; community engagement (sustainability issues); policy, legislative and project work	Policy delivery	Gov't commitment to sustainable earth resources sector	Broader sustainable development objectives	Pure Public Good	<ul style="list-style-type: none"> • Broader society • Environment
Business Services	Earth resources information systems support; data management	Policy delivery	Gov't commitment to invest in geoscience	State and regional economic growth objectives	Pure Public Good and Selective Public Good	<ul style="list-style-type: none"> • Earth Resources Industry • Broader society
	Earth resource information compliance	Regulation and policy delivery	Gov't commitment to effective regulation	None	Government regulation	<ul style="list-style-type: none"> • Earth Resources Industry
	Client services	Policy delivery	Gov't commitment to invest in geoscience	None	Pure Public Good Selective Public Good and Private Good	<ul style="list-style-type: none"> • Earth Resources companies • Earth Resources Industry • Rural property purchasers
	Day-to-day internal support functions	Administrative support	General role of Government	None	Pure Public Good	<ul style="list-style-type: none"> • Broader society

Business unit	Functions	Purpose	Context	Other policy objectives	Economic characteristics	Primary beneficiaries
Projects and Operations	Coal allocation (tenders)	Policy delivery	Gov't commitment to develop the States coal resource	State and regional economic growth objectives	Private Good	<ul style="list-style-type: none"> • Earth Resources companies
	Project-level facilitation; industry-level facilitation; coal resource planning	Policy delivery	Gov't commitment to attract jobs and investment	State and regional economic growth objectives	Pure Public Good Selective Public Good, and Private Good	<ul style="list-style-type: none"> • Earth Resources companies • Earth Resources Industry • Broader society
Prospectivity and Exploration	Data analysis and technical input	Policy delivery	Gov't commitment to invest in geoscience	State and regional economic growth objectives	Pure Public Good and Selective Public Good	<ul style="list-style-type: none"> • Earth Resources Industry • Broader society
	Assessment of mineralisation reports	Regulation	Gov't commitment to effective regulation	None	Government regulation	<ul style="list-style-type: none"> • Earth Resources Industry • Environment • Those located nearby
Industry Development	Investment attraction	Policy delivery	Gov't commitment to attract jobs and investment	State and regional economic growth objectives	Pure Public Good and Selective Public Good	<ul style="list-style-type: none"> • Earth Resources Industry • Broader society
	Assessment of feasibility studies	Regulation	Gov't commitment to effective regulation	None	Government regulation	<ul style="list-style-type: none"> • Earth Resources Industry • Environment • Those located nearby
Mining Warden	Disputes not involving the Government	Dispute investigation and resolution	Government commitments relating to the Mining Warden	none	Private Good	<ul style="list-style-type: none"> • Parties in dispute
	Disputes involving the Government; referrals from Minister to investigate; referrals for applications for waiver	Ministerial referral	Government commitments relating to the Mining Warden	none	Pure Public Good	<ul style="list-style-type: none"> • Parties in dispute • The Government (public)

Source: Deloitte analysis

Earth Resources Tenements

The purpose of Earth Resources Tenements' functions is predominantly to allocate rights and resources owned by the Crown, to set and enforce expenditure and/or work program requirements for licensees and, to a lesser extent, to regulate work undertaken on tenements, although it also contributes to related policy, legislative and project work. These functions are provided in the context of the Government's commitment to effective regulation of the earth resources sector. As stated by the Minister of Energy and Resources: 'This Government supports a competitive, sustainable and productive earth resources sector, and effective regulation is vital to this outcome.'¹⁴

Broadly speaking, these functions do not contribute to achieving other policy objectives or desired outcomes beyond those they are intended to achieve.

The economic characteristics of Earth Resources Tenements' regulatory functions can be classed as government regulation.¹⁵ That is, mining and extractive industries have the potential to impose costs (or negative externalities) on parties not directly involved in the industry (including both the community and the environment). As such, effective government regulation is justified as a means to correct this market failure by decreasing the risk of harm or damage that may arise to the community and the environment.

It could be argued that the minerals licencing function (particularly exploration licencing) also has pure public good aspects. That is, although the regulated activities have the potential to impose costs on parties not directly involved in the industry, the discovery, development and commercialisation of State-owned earth resources through such activities may give rise to external benefits to the community more broadly. For example, geoscience information collected through exploration activities serves a wide variety of public and private interests: 'Apart from mineral exploration, applications include identifying adequate supplies of clean water, civil engineering projects, land use planning, environmental impact assessment, public health and safety, and national sovereignty'.¹⁶

For the purposes of this exercise, government regulation is regarded as the most obvious and dominant economic characteristic of the minerals licencing function. Although pure public good aspects may be present, the case is not clear cut. As such, the extent to which minerals licencing activities might not be fully recovered is best considered as a broader policy question and is therefore out of scope of this Review. According to the Cost Recovery Guidelines, the question of whether full cost recovery is appropriate should include consideration of impacts on industry innovation, the existence of any third party benefits

¹⁴ The former Minister for Energy and Resources, Hon. Michael O'Brien MP, (2012), Letter to the former Secretary of DPI, Mr Jeff Rosewarne, *Earth Resources Sector - Statement of Expectation*, 16 January 2012, DPI webpage, accessed 13 June 2012, <http://www.dpi.vic.gov.au/about-us/legislation/ministerial-statements-of-expectations/soe-for-earth-resources>

¹⁵ Note that, for the purposes of determining the most appropriate economic characteristic, the term 'government regulation' can be interpreted to include activities related to government regulation such as the allocation of rights and resources owned by the Crown.

¹⁶ Duke, J M, (2010), *Government geoscience to support mineral exploration: public policy rationale and impact*, Prepared for Prospectors and Developers Association of Canada, accessed 16 July: <http://pdac.ca/pdac/advocacy/geosciences/100909-ministry.pdf>

arising from the activities and whether full cost recovery would undermine other government objectives and/or industry innovation.¹⁷

In relation to Earth Resources Tenements' policy, legislative and project work, the economic characteristics of these functions can be classed as pure public goods. In particular, such activities represent the broader role of government and it is not possible to exclude anyone from the benefits of centralised government decision-making, and each individual in the community benefits without diminishing the benefit to others.

Key beneficiaries of Earth Resources Tenements' regulatory functions are the local community (i.e. those that might otherwise be impacted by external costs), the broader environment (to the extent that the regulations reduce environmental costs) and mining and extractive industries (to the extent that the regulations create a level playing field in terms of health/environmental standards and reduce the risk of costly adverse events). The key beneficiary of Earth Resources Tenements' policy, legislative and project work is society more broadly.

It is noted that Earth Resources Tenements' has additional functions relevant to regulating Victoria's petroleum and geothermal industries. However, these are excluded from the discussion as they are out of scope of this review.

Minerals and Extractives Operations

The purpose of Minerals and Extractives Operations' functions is predominantly to regulate the operation of mine and quarry sites, although the unit also contributes to relevant policy, legislative and project work (incl. the current project on the Mine Stability Levy). Consistent with above, these functions are provided in the context of the Government's commitment to effective regulation of the Earth Resources industry.

The contribution to other policy objectives, economic characteristics and key beneficiaries of Minerals and Extractives Operations' regulatory functions are broadly consistent with those discussed above for the Earth Resources Tenements unit.

One exception, however, is the complaints handling and community engagement functions. The provision of a complaints handling function in this case has both government regulation and pure public good aspects. The government regulation aspect relates to the handling of complaints from the public about mining and quarry operations that are not complying with their work plan and/or the regulations etc. The public good aspect, however, relates to community engagement activities and the handling of complaints from the public that may be vexatious or may be motivated by politics, i.e. those that industry has no control over. In particular, these functions represents the broader role of government and it is not possible to exclude anyone from the benefits of centralised government decision-making, and each individual in the community benefits without diminishing the benefit to others.

Sustainable Development

One of the main purposes of the Sustainable Development unit's functions is to ensure that development within the mining and extractive industries is sustainable. This is consistent with sustainable development principles outlined in the MRSDA. These functions also

¹⁷ Department of Treasury and Finance, (2010), Op sit.

contribute to achieving broader government policy objectives relating to sustainable development.

The economic characteristics of the Sustainable Development unit's functions can be classed as pure public goods. That is, it is not possible to exclude anyone from the broader sustainability outcomes of these functions and each individual in the community benefits without diminishing the benefit to others. Key beneficiaries of the Sustainable Development unit's functions are the local community and broader environment.

Business Services

The purpose of Business Services' functions is predominantly to provide data systems infrastructure and support for internal use by government agencies and external use by industry and the community. The unit also provides day-to-day internal administrative support functions within the division. These functions are provided in the context of the Government's geoscience data commitments. As stated in The Victorian Liberal Nationals Coalition Plan For Energy and Resources: 'A Liberal Nationals Coalition Government will support the continued promotion of geoscientific data and analysis to assist industry to have access to high quality information to promote the responsible development of Victoria's minerals and resources sector.'¹⁸

To the extent that these functions result in increased investment in earth resources, they contribute to achieving broader government policy objectives relating to economic and employment growth in regional areas and across the State.

The economic characteristics of Business Services' policy delivery and client services functions can be classed as selective public goods and private goods. That is, the provision of data systems infrastructure and support benefits specific groups, namely earth resources industries and particular individuals/companies who obtain data through this service. However, the outputs of these functions also have pure public good aspects as these systems are integral to managing the State's existing earth resources and play an important role in the discovery of new earth resources, with flow on benefits to the broader community.

The economic characteristics of the earth resource information compliance function can be classed government regulation.

The economic characteristics of Business Services' administrative and support functions can be classed as pure public goods. In particular, such activities represent the broader role of government (e.g. the preparation of Budget and Expenditure Review Committee bids) and it is not possible to exclude anyone from the benefits of centralised government decision-making, and each individual in the community benefits without diminishing the benefit to others.

Key beneficiaries of Business Services' functions are earth resources industries (to the extent that data systems infrastructure and support facilitates help industry to discover new resources that they can make profits from), individuals/companies (such as those that benefit from information and data provided through this service) and the broader

¹⁸ Liberal National Party, (2010), *The Victorian Liberal Nationals Coalition Plan For Energy and Resources: The Victorian Liberal Nationals Coalition's Policy and Plans for the 2010 State Election*, Authorised by Tony Nutt, 104 Exhibition St, Melbourne VIC 3000, p.27, Accessed 13 June 2012, Available at http://renewable.newstead.vic.au/d/?q=filedepot_download/2/20

community (to the extent that the processing of newly discovered resources brings benefits to the State).

Projects and Operations

The purpose of Project and Operations' functions is predominantly to provide a facilitation role for the mining industry and strategically manage the State's coal resource.

The former of these functions is provided in the context of the Government's commitments to increase investment in Earth Resources. As stated in The Victorian Liberal Nationals Coalition Plan for Energy and Resources: 'The Liberal Nationals Coalition will work with the sector to improve regulation, reduce uncertainty and duplication to attract more jobs and investment to our state in the minerals and resources sector.'¹⁹ More recently, the Victorian Government has made announcements relating to its intention to encourage development of the State's brown coal resource.

Consistent with above, to the extent that these functions result in increased investment in earth resources, they contribute to achieving broader government policy objectives relating to economic and employment growth in regional areas and across the State.

The economic characteristics of Projects and Operations' functions can be classed as a mix of private goods, selective public goods and pure public goods. The specific activity of assessing coal tenders can be classed as a private good. It is possible to exclude people from the private benefits that accrue to successful tenderers (i.e. rights to develop the State's coal resource).

The project facilitation function is provided only to projects at a size that is of strategic importance to the State, so the outputs are excludable and focussed on a narrow group of companies within the industry. As such, the project facilitation function has private good aspects. However, given that this service is provided for projects of strategic importance to the State, this function also has pure public good aspects.

The industry facilitation and coal resource planning functions have broad focus and benefit both the government/community (in assisting departments to understand industry needs and strategically managing the State's coal resource) and industry more broadly (in assisting to 'decode' requirements from other government agencies). As such, this function has both selective public good and pure public good aspects.

Prospectivity and Exploration

The purpose of the Prospectivity and Exploration Unit's functions is to undertake technical analysis and encourage the discovery of unknown resources. These functions are provided in the context of the Government's geoscience data commitments (as outlined above). The unit also provides a support function to the Earth Resources Regulation Branch through the assessment of mineralisation reports.

The economic characteristics of Prospectivity and Exploration's data analysis and technical input functions can be classed as a mix of pure public goods and selective public goods. That is, the discovery of previously unknown resources benefits both the mining industry and the society more generally by adding to the State's resource base.

¹⁹ Department of Treasury and Finance, (2010), Op sit., p.26.

The economic characteristics of the mineralisation report assessment function can be classed as government regulation, as it is a necessary component of the mining and retention licence process.

Industry development

The purpose of the Industry Development Unit's functions is to work with development companies to encourage development of known State earth resources. These functions are provided in the context of the Government's commitments to increase investment in Earth Resources (as outlined above).

The contribution to other policy objectives, economic characteristics and key beneficiaries of Industry Development's functions are broadly consistent with those discussed above for the Business Services unit. In particular, these functions have both selective public good aspects (with industry benefiting from the information provided through this function) and pure public good aspects (with investment attraction bringing benefits to the State).

The economic characteristics of the prefeasibility study assessment function can be classed as government regulation, as it is a necessary component of the mining and retention licence process.

Mining Warden

The purpose of the Mining Warden is predominantly to investigate and resolve disputes and investigate matters on behalf of the Minister for Energy and Resources. The Mining Warden is an independent statutory office holder. The MRSDA confers wide-ranging powers to assist the Mining Warden in performing the statutory functions. These functions are provided in the context of the Government's commitments to 'preserve the independence of the Mining Warden'.²⁰

Broadly speaking, these functions do not contribute to achieving other policy objectives or desired outcomes beyond those they are intended to achieve.

The economic characteristics of the Mining Warden's functions can be classed as both pure public goods and private goods. When mediating a dispute not involving the Government it is possible to prevent the use of this service by another party and the benefits accrue only to the parties involved in the dispute. However, when mediating a dispute between an external party and the Government, or undertaking an investigation on behalf of the Minister, benefits accrue to associated private parties and the public more broadly (e.g. through reduced disputation costs to Government).

Who could be charged?

Regulatory functions

Potential parties to be charged are those individuals/businesses that are subject to the Extractive Regulations or those that otherwise benefit from the regulations, such as those located in nearby communities or the community more broadly.

However, the Cost Recovery Guidelines suggests that there are strong economic efficiency arguments for 'internalising' the costs of government regulation:

²⁰ Ibid.

From the point of view of economic efficiency, it is important that the cost structures of an industry reflect all of the costs to society that must be expended for that industry to continue. If industry participants do not face the full costs associated with the efficient regulation of that industry, prices will tend to be too low and output too high than the best outcome for society as a whole. To address this, the costs incurred by government in administering regulation should be internalised as part of the cost of production of the good or service in question.²¹

As such, it is deemed more appropriate to charge those that are subject to the regulations than those that might benefit from the regulations.

Policy delivery functions

Potential parties to be charged are those that benefit from the policies and programs delivered by the Earth Resources Development Division. These include individuals using the Business Services unit's client services function, specific businesses within the mining and extractive industries, the mining and extractive industries as a whole and the community more broadly.

As outlined below, the outputs of the policy delivery functions have a range of different economic characteristics, ranging from pure public goods to private goods. As such, there is no single rule for determining the most appropriate party to be charged. In most cases, however, outputs of the policy delivery functions are pure public goods or selective public goods so there is a case for funding these through general taxes or DPI's budget. This is outlined in more detail below.

Is charging feasible, practical and legal?

Regulatory functions

The charging of fees for regulatory functions is feasible and practical, particularly given that such fees are already charged in Victoria and that application processes provide an opportunity for the charging of such fees.

The appropriate legal authority to charge regulatory fees exists under the MRSDA. In particular, Section 124(1)(v) of the MRSDA states: 'The Governor in Council may make regulations for or with respect to... requiring the payment of fees for anything done under this Act or the regulations and prescribing those fees'.²² Moreover, Section 124(8) states: 'Regulations made under subsection (1)(v) may—

- (a) vary according to differences in time, place or circumstance; and
- (b) provide for different fees for—
 - (i) different activities or classes of activities; or
 - (ii) different cases or classes of cases; or
 - (iii) different modes of providing any service in respect of which those fees apply.²³

²¹ Ibid.

²² *Mineral Resources (Sustainable Development) Act 1990*, Section 124(1)(v).

²³ Ibid., Section 124(8).

Fees currently prescribed under the Minerals and Extractive Regulations are outlined in the body of this report. The introduction of any new fees would require amendments to these Regulations.

Policy delivery functions

For policy delivery functions with outputs that are pure public goods, it is not practical, or indeed feasible, to charge fees to the beneficiaries (i.e. the general public) as it is more efficient to recover the costs of these functions through general taxes.

For policy delivery functions with outputs that are selective public goods, it may be feasible to charge a levy on the minerals and extractive industries to recover the costs of these functions. However, in light of the fact that these functions also result in external benefits to the wider community, it is more appropriate that these costs are recovered from DPI's budget (i.e. general taxes), consistent with standard practice for recovering the costs of policy delivery functions.

For policy delivery functions with outputs that are private goods, it may be feasible to charge fees to those parties that directly benefit from these outputs. Relevant functions include, assessment of coal tenders, rural conveyancing information requests and disputes handled by the Mining Warden where the Government is not included in the dispute.

The Minerals and Extractive Regulations would need to be amended to introduce specific fees for rural conveyancing information requests and disputes handled by the Mining Warden.

Is full cost recovery appropriate?

The appropriateness of full cost recovery is discussed separately below for each business unit.

The assessment of whether full cost recovery is appropriate was based on charging considerations for outputs with different economic characteristics, as outlined in the Cost Recovery Guidelines. These are summarised in table A.3.

Table A.5: Charging considerations for different types of goods

Type of good	Charging considerations
Pure public good	<p>Given the wide-ranging and nonexclusive nature of the benefits, there is a strong case for funding pure public goods from the community as a whole through general taxation</p> <p>A related consideration is that costs associated with the broad development of policy/regulation and general parliamentary servicing roles of government should be excluded from the cost base as such activities represent the broader roles of government, with public benefits, and may therefore be more appropriately funded from general taxation.</p>

Type of good	Charging considerations
Selective public good	<p>A number of policy initiatives have been introduced to enable these type of public goods to be funded by the beneficiaries – e.g. legislation that allows compulsory levies to be introduced on identifiable groups that benefit from research and development</p> <p>Funds may come from the budgets of the government departments responsible for the relevant activity/benefit group, where there are external benefits to society</p>
Private goods	<p>There is a strong case for recovering the costs of a private good from those who benefit from it.</p>
Government regulation	<p>On economic efficiency grounds, there is a case for the administrative costs of regulation to be internalised into the cost structure of the regulated industry.</p> <p>Practical considerations normally mean charges are imposed on businesses (but may ultimately be shared with consumers with costs shifting along the production line)</p>

Source: Adapted from Department of Treasury and Finance, (2010), *Cost Recovery Guidelines*, Melbourne, p.15 and p.29.

Earth Resources Tenements

Minerals and extractives regulatory functions

The outputs of these functions are classed as government regulation. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions be recovered through fees charged to minerals and extractive industries.

Policy, legislative and project work

The outputs of these functions are classed as pure public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries.

Minerals and Extractives Operations

Minerals and extractives regulatory functions

With the exception the complaints handling and community engagement functions, the outputs of these functions are classed as government regulation. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions be recovered through fees charged to minerals and extractive industries.

In relation to the complaints handling and community engagement functions, these have both government regulation and pure public good characteristics. In particular, the pure public good aspects relate to the handling of complaints from the community that are vexatious or motivated by politics, i.e. those that industry has no control over. The function of engaging with the community and handling vexatious or politically motivated complaints represents the broader role of government and should be funded through general taxes. According to DPI, these activities represent around 50 per cent of the overall effort expended in this area. Consistent with this, it is assumed that half of complaint handling and community engagement costs should be considered cost recoverable through fees charged to industry, noting that this percentage will be lower if the overall level of cost

recovery across all cost recoverable activities is less than 100 per cent (e.g. in light of an overall policy decision for partial rather than full cost recovery).

Policy, legislative and project work

The outputs of these functions are classed as pure public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries. This includes costs associated with the current project on the Mine Stability Levy.

Sustainable Development

The outputs of the Sustainable Development unit's functions are classed as pure public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries.

Business Services

Earth resources information systems support; data management

The outputs of these functions are classed as a mix of pure public goods and selective public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries, rather they should be funded directly from DPI's budget.

Earth resource information compliance

The outputs of this function are classed as government regulation. This function involves working with the Tenements unit to ensure that reporting obligations for exploration and mining licence holders are being met and that the required data is being provided to the Government.

Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with this function be recovered through fees charged to minerals and extractive industries.

Client services

The outputs of this function are classed as a mix of pure public goods, selective public goods and private goods. Consistent with charging considerations outlined in Table A.3, it may be appropriate that costs associated with the private good aspects of these functions be recovered through fees charged to those using this service. However, it is noted that information which aids the discovery of new resources has strong public good aspects, so any barriers to the dissemination of this information should be minimised, particularly given the Government's commitments to attract more jobs and investment to the State in the minerals and resources sector. Consistent with this, it is appropriate that costs associated with this function not be recovered through fees charged to those using this service, rather they should be funded directly from DPI's budget.

One key exception, however, is the provision of land information for the purposes of rural conveyancing (e.g. information about mine hazards or existing licences applicable to a particular property or properties nearby). This service has minimal public benefits and strong private benefits, so it may be appropriate that costs associated with this service be recovered through fees charged to those using this service. However, the scope of this

analysis precludes consideration of activities relating to geo-science information services. As such, the potential for a rural conveyancing request fee is not explored any further in this RIS. It is noted, however, that this is something that could be considered in the future.

Administration and support

The outputs of this function are classed as pure public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries.

Projects and operations

Project-level facilitation, industry-level facilitation and coal resource planning

The outputs of these functions are classed as pure public goods, selective public goods and private goods. Consistent with charging considerations outlined in Table A.3, it may be appropriate that costs associated with the private good aspects be recovered. However, it is noted that this service is provided in recognition that the approvals process for large projects is complex, particularly given the need to deal with multiple agencies, thus requiring facilitation by DPI to ensure any associated investment barriers are minimised. In light of this, it is not regarded as appropriate to recover the costs of project-level facilitation from industry.

As the remainder of the functions are pure public goods and selective public goods, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries, rather they should be funded directly from DPI's budget.

Prospectivity and Exploration

Data analysis and technical input

The outputs of these functions are classed as a mix of pure public goods and selective public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries, rather they should be funded directly from DPI's budget.

Assessment of mineralisation reports

The outputs of this function are classed as government regulation. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with this function be recovered through fees charged to the minerals industry.

Industry Development

Investment attraction

The outputs of these functions are classed as a mix of pure public goods and selective public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries, rather they should be funded directly from DPI's budget.

Assessment of feasibility studies

The outputs of this function are classed as government regulation. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with this function be recovered through fees charged to the minerals industry.

Mining Warden

Disputes not involving the Government

The outputs of this function are classed as private goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with this function be recovered through fees charged to minerals and extractive industries.

Disputes involving the Government, referrals from the Minister to investigate, referrals for applications for waiver

The outputs of these functions are classed as pure public goods. Consistent with charging considerations outlined in Table A.3, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractive industries.

Appendix B: Cost recovery and fee analysis

This appendix outlines the methodology for the cost recovery and fee analysis, the existing fees, the estimated cost base and the allocation of costs

Note on the cost recovery and fee analysis

The cost recovery and fee analysis was conducted for both the Mineral Regulations and the Extractive Regulations. As such, the analysis is broader than the focus of this RIS, which purely relates to the regulation of minerals industries. This has no bearing on the outcomes of the analysis in terms of extractive industry regulatory activities that are determined to be cost recoverable.

This analysis was based on information (including in relation to the organisational structure associated budget allocations) current as at June 2012, so does not reflect the subsequent 2012 restructure of divisions within the Energy and Earth Resources Group or the migration of activities from the former DPI to DSDBI. However, these structural changes have not had any material impact on the composition or work role of the business units included in the analysis. Nor have any indirect consequences of the restructure been identified to date.

Methodology

The approach adopted for the cost recovery and fee analysis is outlined in Table B.1.

Table B.1: Summary of methodology

Stage	Approach
Defining activities that are cost recoverable	A desktop review of available information was undertaken, as well as discussions with DPI, to determine a long list of Minerals and Extractives activities undertaken by DPI that are in scope for this RIS. The list of activities was then assessed to determine the appropriateness of recovering costs associated with each of these activities. This resulted in a final list of recoverable activities.

Stage	Approach
Estimating and allocating costs	<p>The broad costing methodology adopted for the Review was the ‘fully distributed costs’ approach, which allocates all costs (direct and indirect) to the activities.</p> <p>Estimates of average hours spent by staff at different Victorian Public service (VPS) levels for each recoverable activity were gathered through a series of workshops with staff from the Earth Resources Regulation Branch (ERRB).</p> <p>Information on direct costs of ERRB staff such as salaries, non-wage labour costs and office expenses, and indirect costs such as capital costs and overheads was gathered from the ERRB accounts and budgeting area.</p> <p>The above information was reflected in a cost model and allocated across the different activities – direct costs were allocated based on hours spent and indirect costs were allocated using the pro-rata method consistent with DPI’s standard accounting rules.</p> <p>The cost base was estimated by summing the cost of all recoverable activities. Analysis was also undertaken to determine the extent of over- or under-recovery.</p>
Determining options for the structure of fees	<p>Once the estimates of costs for each activity were developed, consideration was given to different options for the structure of fees. Options were developed with consideration of any limitations of the current fee structure and key principles of appropriate fee design (e.g. that the structure of fees should reflect the effort involved in the associated regulatory activity).</p>

Appendix A outlines the methodology for defining cost recoverable activities this Appendix outlines the methodology for estimating and allocating the costs and determining options for the structure of the fees

Estimating the cost base

Based on the outcomes of the analysis to define activities that are cost recoverable, it was determined that the majority of cost recoverable activities are undertaken by staff in the Earth Resources Tenements and Mining and Extractives Operations business units that sit within ERRB. However, a small number of cost recoverable activities are also undertaken by staff in other areas of the Energy and Earth Resources Group.

Estimates of the costs associated with activities undertaken in these areas are outlined below.

Costs of the Tenements and Operations business units

Total salary, operating and overhead costs

Total salary, operational and overhead costs associated with the Earth Resources Tenements and Mining and Extractives Operations business units over the last six years are provided in Table B.2. These figures are based on financial accounting data provided by DPI,

noting that 2012-13 Budget figures were not available at the time of conducting the analysis. The costs of the ERRB Director, Executive Assistant and Financial Accountant are included as a separate item.

Table B.2: Total costs of Tenements, Operations and ERRB Director/admin (June YTD budget figures, \$ million)

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Minerals and Extractive Operations						
Salary on-costs	\$1.8	\$1.9	\$2.0	\$2.1	\$2.2	\$2.1
Operating expenses	\$0.6	\$0.6	\$1.2	\$0.9	\$0.7	\$1.0
Overhead accounts	\$0.6	\$0.6	\$0.6	\$0.7	\$0.7	\$0.5
Total	\$3.0	\$3.1	\$3.8	\$3.7	\$3.7	\$3.6
Earth Resources Tenements						
Salary on-costs	\$1.2	\$1.2	\$1.1	\$1.3	\$1.3	\$1.1
Operating expenses	\$0.3	\$0.2	\$0.2	\$0.2	\$0.2	\$0.2
Overhead accounts	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.4
Total	\$2.0	\$2.0	\$1.9	\$2.0	\$2.1	\$1.8
ERRB Director and administration						
Salary on-costs	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Operating expenses	\$0.1	\$0.1	\$0.0	\$0.1	\$0.1	\$0.1
Overhead accounts	\$0.1	\$0.1	\$0.1	\$0.1	\$0.1	\$0.1
Total	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.6
Total	\$5.5	\$5.6	\$6.1	\$6.2	\$6.3	\$6.0

Source: Internal DPI financial data

As indicated, total June year to date expenses in 2011-12 for Minerals and Extractives Operations and Earth Resources Tenements were \$3.6 million and \$1.8 million respectively. In addition, expenses for the ERRB Director and administration staff were \$0.6 million in the same year. This brings total salary, operational and overhead expenses to \$6 million for 2011-12. This is slightly lower than the June year-to-date figure for the previous two years, but consistent with the average for the previous four years.

Total 2011-12 expenses for these business units of \$6 million represents around 67 per cent of the total for ERRB of \$8.9 million. The other \$2.9 million is accounted for by expenses associated with the Sustainability unit, the Petroleum and Geothermal Operations unit, Sustainable Mining & Community Engagement, the Yallourn Technical Review Board and Yallourn Research and Development.

It is important to note that not all of the \$6 million in expenses for the relevant business units is recoverable through mining and extractives fees, as follows:

- Minerals and Extractives Operations and Earth Resources Tenements staff provide input to briefings and policy-related work and undertake some other functions that are not fully recoverable.
- Three staff members within Earth Resources Tenements undertake activities unrelated to minerals and extractive industries, instead working on petroleum and geothermal related regulatory activities
- Only a certain proportion of the ERRB Director, Executive Assistant and Financial Accountant's time is used in undertaking minerals and extractives regulatory activities.

This is addressed in more detail below.

Capital costs

In addition to the salary, operational and overhead costs outlined above, minerals and extractives regulatory activities require use of the newly created Resource Rights Allocation Management (RRAM) administrative system, which is currently being rolled out and is replacing the current out-dated system. According to information provided by DPI, the total capital budget for establishing the RRAM system over the period 2008-09 to 2011-12 has been \$11.713 million. Based on discussions with DPI, the system will be used evenly between the ERRB and the Fisheries areas of DPI and the life of the asset is approximately 20 years. Therefore, based on the assumption that half of these costs are attributable to ERRB and assuming a 20 year asset life, the annual amortised cost of the RRAM system attributable to ERRB is \$292,825.

There are approximately 41 users of the RRAM system within ERRB – 12 in Earth Resources Tenements, 21 in Mining and Extractives Operations and 5 in Petroleum and Geothermal Operations and 3 in the ERRB Director and Administration area. Using a pro-rata method, it can be assumed that 88 per cent (36/41) of the annual cost of the RRAM system is attributable to Earth Resources Tenements, Mining and Extractives Operations and the ERRB Director and Administration area. As such, the annual amortised cost of the RRAMS system attributable to these business units is estimated at \$257,115. On a per head basis, the cost is \$7,142 per year.

This annual capital cost is assumed to be recoverable from industry as the system is integral to the delivery of ERRB regulatory outputs. Indeed, discussions with DPI suggest that it would not be possible to operate ERRB without such a system. In relation to ongoing service, support and maintenance, it is understood that these costs are reflected in a separate budget, the costs of which are captured in the figures outlined in Table B.2.

Allocating direct and indirect costs

As discussed above, this analysis adopted the pro-rata method for allocating indirect costs as detailed information was not available at the activity level on key drivers of indirect costs within ERRB. The pro-rata method was also used for some direct costs, where relevant. The pro-rata method applied was consistent with the standard DPI accounting approach for allocating operational and overhead costs. A breakdown and description of direct and indirect costs associated with activities undertaken by ERRB, as well as the DPI pro-rata allocation for 2011-12, is provided in Table B.3.

Table B.3: Breakdown and description of ERRB costs

Type of cost	Expense item	Description	DPI pro-rata allocation (2011-12)
Direct costs	Salaries	Staff salaries and allowances	N/A
	Salary-related on-costs	Includes payroll tax, maternity leave, recreational leave, long service leave, superannuation and WorkCover levy (mostly proportional to salary)	N/A
	Domain Access Levy	DPI Common Domain Access Levy (SOE) which covers the cost of staff access to DPI's IT network and the Internet	\$4,080/head

Type of cost	Expense item	Description	DPI pro-rata allocation (2011-12)
	Personal Training and Development	Course/conference fees for discretionary staff training and development (1% of DPI staff salaries)	N/A
	Computer lease	Lease of desk computer equipment	\$600/head
	Miscellaneous operational expenses	Includes car parking, vehicle hire (fleet), electricity, overnight accommodation, recruitment advertising, telephony, seminar/conferences (incl. travel and accommodation), meeting venue hire/catering, office equipment, stationary, postal and protective clothing/uniforms (these costs are unique to each business unit and are dependent on the functions provided)	N/A
Indirect costs	Mandatory Training & Development	Course/conference fees for mandatory staff training and development (1% of DPI staff salaries)	N/A
	OH&S Levy	Occupational health and safety levy (1.4% of DPI staff salaries)	N/A
	Accommodation & Workstation Charge	Staff workstations and office accommodation	\$7,800/head (CBD) \$7,200/head (Regional)
	Business and Corporate Services Levy	Staff and associated costs of the DPI Business and Corporate Services Group, which manages the corporate framework that directly supports the broader Department. It includes services such as finance, human resources, communication, knowledge and information technology, facilities management, legal services and governance	\$18,470/head
	Capital costs	The main capital cost within ERRB is that associated with the Resource Rights Allocation Management administrative system	N/A

Source: Financial accounting information provided by DPI

An assessment of these expense items was undertaken to determine whether any costs should be excluded on the basis that they are not integral to the minerals and extractives regulatory function. In particular, a detailed search was conducted to identify costs that could be regarded as discretionary or not fundamental to regulating the mining and extractive industries. This included consideration of whether, in the absence of Government regulation of the earth resources sector, any of these costs would continue to be incurred by DPI. Information available to conduct this assessment included a detailed breakdown of operational expenses and functions undertaken by the Business and Corporate Services Group.

Based on the information available for this analysis, it was not possible to identify any costs that should be excluded on the basis that they are not integral to the minerals and extractives regulatory function. In particular, all costs were regarded as necessary and a fundamental part of employing regulatory staff and undertaking regulatory operations in CBD and regional areas, including the use of vehicles and overnight accommodation for head office meetings attended by regional staff.

In relation to the Business and Corporate Services Levy, which is the largest indirect cost, it was not possible to identify any functions undertaken by the Business and Corporate

Services Group (e.g. those associated with the broad development of policy and general parliamentary servicing) that are not integral to the overall provision of regulatory services. Moreover it was regarded as reasonable to assume that the costs of the Business and Corporate Services Group are proportional to the number of people employed by DPI and that they would therefore reduce in the absence of an earth resources regulation function.

In light of the above conclusion, it was determined that all cost items listed in Table B.3 can reasonably be recovered from industry and that the DPI approach to allocating operational and overhead costs on a per head of staff basis is appropriate in the absence of further detail on what drives these costs.

Estimating costs per activity

The process of calculating the cost of different activities undertaken by the Earth Resources Tenements, Minerals and Extractives Operations and Manager and Administration business units involved the following steps:

- Listing all activities that relate to specific fees as well as other broad activities (cost recoverable and non- cost recoverable) that are undertaken in each business unit
- Assigning human resources to each activity, based on the average number of hours spent on each activity by different VPS staff levels
- Determining the number of times each cost recoverable activity is undertaken per year (based on figures for 2010-11, which were the only figures available)
- Calculating the total hours spent on each activity per year according to different VPS staff levels
- Calculating the cost per hour for different VPS staff levels, separately for each business unit
- Calculating the total cost associated with each activity, by multiplying the total hours per year by the cost per hour, separately for each VPS staff level and business unit

Information required for the first three of these steps was gathered from DPI staff in each of the relevant business units, based on their understanding of the activities undertaken, how long it takes to undertake those activities and the number of times they are undertaken each year. Estimates of the cost per hour for different VPS staff levels were based on financial accounting information provided by DPI.

The estimates resulting from this analysis are provided in Table B.4. The table also provides an indication of whether costs are recoverable or not (based on the analysis in Appendix A) and total recoverable cost for each activity. As indicated, total recoverable costs associated with minerals and extractives regulatory activities undertaken by ERRB staff are \$3,692,709.

Table B.4: Estimating total and recovered costs per activity (2011-12)*

Activity	Total cost	Whether or not recoverable	Recovered cost
Earth Resources Tenements			
Exploration Licence Applications	\$35,732	Recoverable	\$35,732
Exploration Licence Renewal	\$57,778	Recoverable	\$57,778
Exploration Licence - Objections	\$100,258	Recoverable	\$100,258
Exploration Licence - Native Title	\$36,322	Recoverable	\$36,322
Retention Licence	\$0	Recoverable	\$0

Activity	Total cost	Whether or not recoverable	Recovered cost
Mining Licence Applications	\$8,362	Recoverable	\$8,362
Mining Licence Renewal	\$22,261	Recoverable	\$22,261
Mining Licence - Objections	\$14,005	Recoverable	\$14,005
Mining Licence - Native Title	\$7,926	Recoverable	\$7,926
Prospecting Licence	\$0	Recoverable	\$0
Miner's Right (<2 years)	\$88	Recoverable	\$88
Miner's Right (>2 years)	\$88	Recoverable	\$88
Tourist Fossicking Authority (2 year term)	\$161	Recoverable	\$161
Tourist Fossicking Authority (10 year term)	\$0	Recoverable	\$0
Variation of a licence	\$23,997	Recoverable	\$23,997
Transfer of a licence	\$5,384	Recoverable	\$5,384
Amalgamation of a licence	\$4,634	Recoverable	\$4,634
Access to mining register	\$88	Recoverable	\$88
Provision of information/copies etc	\$88	Recoverable	\$88
Annual activity and expenditure return (Minerals)	\$163,306	Recoverable	\$163,306
Tenders (non-coal)	\$643	Not recoverable	\$0
Production return (Extractives)	\$41,317	Recoverable	\$41,317
Mining/Prospecting Work Authority Drafts received	\$24,249	Recoverable	\$24,249
Mining/Prospecting Work Authority Endorsed	\$524	Recoverable	\$524
Mining/Prospecting Work Authority - variation	\$28,147	Recoverable	\$28,147
Extractive industry work authority - Applications	\$24,420	Recoverable	\$24,420
Extractive industry work authority Approved	\$4,541	Recoverable	\$4,541
Extractive industry work authority - variation	\$8,293	Recoverable	\$8,293
Extractive industry work authority - transfer	\$3,102	Recoverable	\$3,102
Rehabilitation bonds - transactions	\$105,399	Recoverable	\$105,399
Licence cancellations	\$4,207	Recoverable	\$4,207
Licence surrenders	\$8,808	Recoverable	\$8,808
Procedures and information	\$181,864	Recoverable	\$181,864
Input to briefings etc.	\$363,728	Not recoverable	\$0
Reporting and expenditure compliance	\$101,638	Recoverable	\$101,638
Petroleum/geothermal work	\$494,785	Not recoverable	\$0
Subtotal	\$1,876,141		\$1,016,987
Minerals and Extractives Operations			
Exploration Standard Work Plan - new	\$63,355	Recoverable	\$63,355
Exploration Standard Work Plan - variation	\$65,391	Recoverable	\$65,391
Exploration Area Work Plan - new	\$9,148	Recoverable	\$9,148
Exploration Area Work Plan - variation	\$9,148	Recoverable	\$9,148
Mining Work Plan - new	\$194,209	Recoverable	\$194,209
Mining Work Plan - variation	\$147,570	Recoverable	\$147,570
Extractives Work Plan - new	\$87,117	Recoverable	\$87,117
Extractives Work Plan - variation	\$147,570	Recoverable	\$147,570
Impact Statements (s.41A MRSDA)	\$19,849	Recoverable	\$19,849
Inspection of extractive industry work authority site (large)	\$422,151	Recoverable	\$422,151
Mining visits, audits, inspections, notices, investigations etc	\$202,451	Recoverable	\$202,451

Activity	Total cost	Whether or not recoverable	Recovered cost
Exploration visits, audits, inspections, notices, investigations etc	\$35,717	Recoverable	\$35,717
Managing bond liabilities etc - Mining	\$190,176	Recoverable	\$190,176
Managing bond liabilities etc - Exploration	\$16,792	Recoverable	\$16,792
Managing bond liabilities etc - Extractives	\$479,720	Recoverable	\$479,720
Receiving and following up complaints from industry - Minerals	\$112,229	Recoverable	\$112,229
Receiving and following up complaints from industry - Extractives	\$112,229	Recoverable	\$112,229
Receiving and following up complaints from the community	\$224,458	Not recoverable	\$0
Minerals industry guidance on regulatory matters	\$143,087	Recoverable	\$143,087
Extractive industry guidance on regulatory matters	\$143,087	Recoverable	\$143,087
Special projects - mine stability levy	\$589,760	Not recoverable	\$0
Input to briefings etc	\$343,704	Not recoverable	\$0
Subtotal	\$3,758,918		\$2,600,997
ERRB Director and admin			
Minerals and extractives activities	\$74,084	Recoverable	\$74,084
Non- minerals and extractives activities	\$540,560	Not recoverable	\$0
Subtotal	\$614,645		\$74,084
Total	\$6,249,704		\$3,692,068

Source: Deloitte analysis

Notes: *These cost estimates include salary, operating and overhead costs, as well as capital costs associated with the RRAM administrative system. In addition, for some activities such as Retention and Prospecting Licence applications, none were undertaken in 2010-11 so no cost estimates are provided for these activities. Advice from DPI is that the effort associated with prospecting licence applications and ongoing regulatory activities is likely to be equivalent to Mining, so the rents should also be equivalent, noting that the Prospecting Licence rent is expressed as a fixed fee which assumes five hectares (the maximum allowable site area). However, applications for Prospecting Licences involve far fewer objections and don't involve assessment of feasibility studies, so the application fee should be based only on the effort associated with assessing the application, i.e. these other costs are excluded when calculating the fee. Advice from DPI is that the effort associated with retention licence applications and ongoing regulatory activities is likely to be equivalent to Exploration, so the fees should also be equivalent. However, rents should be much higher for retention licences. Advice from DPI is that rentals for Retention Licences should be \$2.93 per hectare. Rehabilitation bonds are not collected; rather a bank guarantee is sought, so there is no interest generated.

Minerals costs from other areas of the Energy and Earth Resources Group

A number of activities undertaken elsewhere in the Energy and Earth Resources Group are recoverable through minerals fees. Estimates suggest a total recoverable cost of minerals-related activities undertaken by staff outside of ERRB amounting to \$400,766 per year.

Total cost base

Estimates outlined above suggest that total recoverable costs of minerals and extractives activities are \$3,692,068 for activities undertaken in the Earth Resources Regulation Branch and \$400,766 for activities undertaken by staff in other areas of the Energy and Earth

Resources Group.²⁴ As such, the total cost base relevant to the Minerals and Extractive Regulations is estimated at \$4,092,843. The total cost base relevant to the Extractive Regulations is estimated at \$1,600,992. The remainder of the total cost base has been allocated to the Mineral Regulations.

Impact of significant government initiatives on the cost base

During the development of the cost recovery review and the RIS two whole of government efficiency initiatives have been announced. They are the Sustainable Government Initiative and the announcement of an increase in the efficiency dividend expected by the Victorian Government to 2.5 per cent. In addition, there has been a significant restructuring of DPI to form DPI to include the Department of Primary Industries and elements of the former Department of Environment and Sustainability. As such, it has been necessary to consider the impact of these changes on the cost base.

It has been determined, based on advice from DPI and the budget for the upcoming financial year that the whole of government efficiency initiatives and the restructure will have no or negligible impact on the cost base relevant to the Extractive Regulations.

The efficiency of the cost base is discussed in more detail below.

Extent of existing under-recovery

Revenue figures for the last five years are outlined in Table B.5. These figures represent all revenue received by DPI for fees charged under the Extractive Regulations over the period. Total revenue was approximately \$13,000 in 2010-11. This was slightly lower than revenue from the previous year, which was around \$25,000.

Table B.5: Revenue from extractives fees (2006-07 to 2010-11)

	2006-07	2007-08	2008-09	2009-10	2010-11
Extractives fees	\$25,797	\$21,731	\$11,814	\$24,532	\$12,949

Source: Internal DPI financial data

Estimates of the level of current over- or under-recovery are provided in Table B.6. The total cost base is \$1.6 million and annual revenue is around \$0.01 million, suggesting that less than 1 per cent of costs associated with regulating the extractive industry are recovered through fees charged to industry. This represents a shortfall of around \$1.59 million per annum.

These results suggest that a shift to 100 per cent cost recovery would require a significant increase in fees.

Table B.6: Level of over- or under-recovery

	Cost base	Revenue (2010-11)	Under- or over-recovery	Per cent recovered
Fees	\$281,621	\$12,949	-\$268,672	5%
Periodic charges*	\$1,319,371	\$0	-\$1,319,371	0%

²⁴ Refer to the proposed Mineral Regulations: Regulatory Impact Statement 2013.

Total	\$1,600,992	\$12,949	-\$1,588,043	1%
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Source: Deloitte analysis

Notes: *Currently, there are no periodic charges under the Extractive Regulations.

Allocating costs to fees

The extractives-related cost items outlined Table B.4 (above) were allocated to different fees, as outlined in Table B.7. The last column lists the total cost to be recovered through each of the fees. In some instances, a cost item is spread across numerous fees on a proportionate basis (e.g. the costs of EERB Director and administration activities, which are recoverable across most of the fees due to the non-specific nature of these activities). An explanation of each of these fees – some of which are proposed new fees – is provided in Section 3.3.

Table B.7: Allocation of cost items to fees

Fee description	Cost items recovered through fee	% cost item recovered	Amount of cost item	Total cost to be recovered through fee p.a.
Fee for application of an extractive industry work authority	Extractive industry work authority - Applications	100.0%	\$24,420	
	Extractive industry work authority Approved Director/Admin M&E	100.0%	\$4,541	
		0.7% ¹	\$536	
	Total			\$29,497
Fee for request to vary an extractive industry work authority	Extractive industry work authority - variation	100.0%	\$8,293	
	Director/Admin M&E	0.2% ¹	\$154	
	Total			\$8,447
Fee for transfer of an extractive industry work authority	Extractive industry work authority - transfer	100.0%	\$3,102	
	Director/Admin M&E	0.1% ¹	\$57	
	Total			\$3,160
Fee for initial application for a Work Plan ²	Mining Work Plan – new	100.0%	\$194,209	
	Extractives Work Plan – new	100.0%	\$87,117	
	Mining/Prospecting Work Authority Drafts received	100.0%	\$24,249	
	Mining/Prospecting Work Authority Endorsed	100.0%	\$524	
	Director/Admin M&E	7.7% ¹	\$5,670	
	Total			\$311,770
Fee for application to vary a Work Plan ²	Mining Work Plan – variation	100.0%	\$147,570	
	Extractives Work Plan – variation	100.0%	\$147,570	
	Mining/Prospecting Work Authority – variation	100.0%	\$28,147	
	Director/Admin M&E	8.1% ¹	\$5,989	
	Total			\$329,276
Annual fee for extractive industry work authority	Inspection of extractive industry work authority site (large)	100.0%	\$422,151	
	Managing bond liabilities etc - Extractives	100.0%	\$479,720	
	Production return (Extractives)	100.0%	\$41,317	
	Rehabilitation bonds – transactions	34.4% ³	\$36,248	

Fee description	Cost items recovered through fee	% cost item recovered	Amount of cost item	Total cost to be recovered through fee p.a.
	Procedures and information	33.3% ⁴	\$60,621	
	Receiving and following up complaints – Extractives	100.0%	\$112,229	
	Informing and providing guidance to industry on regulatory matters - Extractives	100.0%	\$143,087	
	Director/Admin M&E	32.4% ¹	\$23,997	
	Total			\$1,319,371

Source: Deloitte analysis

Notes: ¹The EERB Director/administration cost item is allocated across the majority of fees on a proportionate basis according to the level of total costs from other items. This approach has been used to allocate costs between the Minerals and Extractive Regulations and between fees within the two areas. ²Estimates of the cost of work plan fees include costs associated with both extractives and minerals work plans as the fees were set so as to be consistent between both sectors. ³The rehabilitation bond (transactions) cost item is allocated across minerals rents and extractives annual fees according to the relative number of rehabilitation bonds (as at June 2011 there were 2 for exploration, 122 for mining and 65 for extractives). ⁴The procedures and information cost item is allocated evenly across minerals rents and extractives annual fees (33% for mining, 33% for exploration and 33% for extractives).

Limitation of our work

General use restriction

This Regulatory Impact Statement was prepared for the Department of State Development, Business and Innovation, then the former Department of Primary Industries, as set out in our contract with the former Department of Environment and Primary Industries dated 11 April 2012 to undertake a Regulatory Impact Statement for the proposed amendments to the Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010. In preparing this Report we have relied on the accuracy and completeness of the information provided to us by the Department of State Development, Business and Innovation and from publicly available sources.

We have not audited or otherwise verified the accuracy or completeness of the information. We have not contemplated the requirements or circumstances of anyone other than the Department of State Development, Business and Innovation. The information contained in this Report is general in nature and is not intended to be applied to anyone's particular circumstances. This Report may not be sufficient or appropriate for your purposes. It may not address or reflect matters in which you may be interested or which may be material to you. Events may have occurred since we prepared this Report which may impact on it and its conclusions. We do not accept or assume any responsibility to anyone other than the Department of State Development, Business and Innovation in respect of our work or this Report.

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