

Report

To: Minister for Resources

Subject: The first 6 monthly review of progress in implementing the *Getting the Groundwork right* report

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Background

When I submitted the report *Getting the Groundwork right* to you in December 2017, you asked me to undertake reviews of implementation progress every six months. This is the first of these reviews.

In order to compile this short report, I have consulted with industry representatives and staff from ERR and DEDJTR. I have been supported in this review by the reform team at DEDJTR and I would like to thank them, particularly Kirsty Henry, for all their help.

Key points

Good News

- Tangible improvements in some of the operations of the Earth Resources Regulator (ERR) are evident to industry
 - ERR's communications and engagement with industry and the broader community have improved vastly.
 - the backlog of applications on hand is now transparent and has declined significantly over the last year (by 40% since August 2017). The downward trajectory continues.
 - applications beyond statutory requirements are down from 15% of 'all applications on hand' to 4%.
 - there are currently no quarry applications outside of statutory timeframes.
 - the appointment of a Principal Industry Liaison Officer to assist industry to navigate the approvals process within ERR has been a significant and positive step. 16 cases have been registered with him and 10 have been resolved. This case management approach is effective and needs to be continued.
- The Minister's release of the Extractives Industry Strategy on 15 June 2018 is highly significant to the industry
 - the Strategy heralded a new, planned Government approach to extractives
 - the Minister's statements of support for the role of extractives in building Victoria were warmly welcomed

Progress being made

As my report outlined, streamlining approvals processes is the most significant improvement opportunity for ERR and the Victorian Government. A summary of progress is below.

- The objective of the new **Statement of Operating Change (SoOC) for extractives** to confirm how ERR assesses workplan variations for existing quarries. This is the most important short-term initiative from my report and aims to address the confusion in ERR and industry about how workplan variations should be treated. Progress has recently been made in finalising this.
 - An equivalent statement of operating change for approvals processes in the mining industry will be released by the end of August.
- **The Resource Rights Allocation and Management (RRAM) system** needs serious attention
 - The RRAM IT system for managing applications does not recognise the current (or even previous) approvals processes. This causes industry some frustration.
 - ERR is working to make substantial changes to improve the functionality of the RRAM system.
 - ERR is also aiming to deliver some improvements quickly to demonstrate agility, responsiveness and keep faith with industry.
- One of my recommendations was to develop **Standard Risk Management Plans (SRMPs)** to set out standard controls for certain types of risk. The aim of these Plans is to operationalise the new streamlined approvals model, provide a more flexible compliance pathway and encourage innovation while maintaining regulatory integrity
 - The standard risk management plan assessment tool is currently being introduced and will be tested and refined in the months ahead.
 - From the start of 2019, the SRMPS will be fully implemented.
- **Standard Operating Procedures (SoPs)** are required to provide clear guidance to ERR staff (and industry) about how different types of applications, risks and industry operations will be treated. ERR staff and industry are currently finalising the development of these SoPs.
- The purpose of the **Joint Ministerial Statement (JMS)** from the Ministers for Planning and Resources is to confirm the way in which the planning system's approvals will interact with ERR's approval processes. Work plans need planning approval as well as ERR approval unless, in the case of extractives, an Environmental Effects Statement (EES) has been undertaken. The approvals processes are further complicated by the role of local councils. The JMS is proposed to provide certainty to industry about what is required, when, and under what circumstances.
 - The Statement, and associated Planning Practice Note, will clarify responsibilities in relation to planning decisions, and will set out circumstances in which the Minister for Planning may exercise powers as the responsible authority for planning approvals.
 - Subject to agreement by the two Ministers, the Statement is to be released shortly.
 - DELWP is continuing its work on the Planning Practice Note and further work is underway to identify how concurrent pathways for approvals can be better used.

- **ERR's 'Culture and practice'**
 - My report highlighted that the fact that while there is considerable scope to modernise the legislative/regulatory framework for mining and extractives, there is scope to improve ERR in terms of its operations.
 - Although some improvements have been made recently, ERR needs to ensure that 'legacy' operational approaches are a thing of the past. It's important that ERR continues its work to improve the guidance material for approvals staff and boost their skills and confidence.
 - Industry knowledge and familiarisation is vital for all ERR staff and one of my recommendations was that this needed to be a focus of ERR in 2018. I am pleased to advise that ERR staff are now undertaking:
 - a program of industry site visits to develop and improve practical understanding of contemporary operating practices.
 - workshops with industry operators and consultants who are regular RRAM users to identify immediate system improvements for clients
 - an external client survey to seek feedback from industry on their experiences with the regulatory system and ERR staff. These results need to be used to get a complete picture from a range of industry participants.
 - staff inductions (from July 2018), and
 - two-way engagement sessions for industry operators and ERR and other regulators in several regional locations are scheduled to start in early August 2018
 - To protect the government in terms of legal and financial risk and for training and skills enhancement reasons, I am recommending that ERR commence recording of phone calls of approvals staff with industry for training and performance purposes. This is standard practice in other regulatory agencies.
- **The Earth Resources Approvals Co-ordination Group** was established to improve mining and extractives approvals across government
 - The establishment of this Group was a key recommendation of my report.
 - Its goal is to remove logjams in approvals for mining and extractives across government.
 - The Group has met 3 times since last August and is proving a useful forum to 'problem solve' approvals issues. It has also laid down a good foundation for a coordinated inter-agency dialogue and understanding of the industry.

Conclusion


ERR and the Department of Economic Development, Jobs, Transport and Resources are on track to deliver the short-term recommendations of my report in 2018.

As we know, industry has been through similar reform processes in the past which have not succeeded. It is important, therefore, that ERR and the reform team continue to deliver the urgently needed improvements.

As you know, my report recommended that the Government overhaul the legislation and regulatory frameworks for mining and extractives in the longer-term. I suggested that the new legislative

arrangements for the EPA be considered as a basis for the new framework for mining and extractives. It would be useful if the preparatory work for this was commenced shortly.

Given your request for six monthly reports, I will be providing you with the next report in December.



Anna Cronin
Commissioner for Better Regulation
Red Tape Commissioner