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**Proposed Mineral Resources
(Sustainable Development)
(Mineral Industries)
Regulations 2013
Regulatory Impact Statement**

**Victorian Department of State
Development, Business and
Innovation**

19 August 2013

**MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) (MINERAL
INDUSTRIES)
REGULATIONS 2013**

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) (Mineral Industries) Regulations 2013. 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 17 September 2013 to:

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Glossary

Bond Calculator	The bond calculator provides a consistent methodology for working out the rehabilitation costs for extractive, exploration and mining operations
DPI	Department of Primary Industries
DSDBI	Department of State Development, Business and Innovation
EDIC	Economic Development and Infrastructure Committee
Extractive Regulations	Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010
Minerals Regulations	Mineral Resources Development Regulations 2002
MRSDA	Mineral Resources (Sustainable Development) Act 1990
Prospectivity	Relates to potential of an area to host economic minerals
Rehabilitation Bonds	A financial security which must be provided by an operator prior to work commencing to ensure that rehabilitation can be undertaken by the DSDBI should the operator be unable to meet their rehabilitation obligations
Rent	A periodic charge for the purposes of cost recovery, not an economic rent
Retention Licence	An intermediate licence between an exploration licence and a mining licence. It allows activities such as intensive exploration, research and other development activities required to demonstrate the economic viability of mining
RIS	Regulatory Impact Statement
Work Plan	A document which provide site-specific information about proposed exploration activities to obtain Government approval

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Executive Summary

Background

Victoria's mining industries are primarily regulated under the Mineral Resources (Sustainable Development) Act 1990 (MRSDA) and associated Mineral Resources Development Regulations 2002 (Minerals Regulations). The Minerals Regulations were scheduled to sunset on 22 October 2012; however, they were extended for 12 months until 21 October 2013.

The *Victorian Guide to Regulation* requires that regulation should not be introduced, remade or adjusted without clear justification. The focus of this Regulatory Impact Statement (RIS) is on the sunsetting Minerals Regulations. Its role is to assess if there is a need for government intervention resulting from problems to which the market will not, on its own, provide a satisfactory response.

Nature and extent of the problem

In this RIS, the analysis of the problem focuses on a scenario where the regulations are not remade and current legislation and other related regulations are used (in their current form) to achieve the government objective. If the Minerals Regulations were allowed to lapse businesses undertaking mining and minerals exploration would continue to be required to comply with the MRSDA. Our analysis found that if the regulations are allowed to lapse business and government would face greater regulatory uncertainty. Greater regulatory uncertainty has the potential to:

- increase the costs of compliance with the MRSDA
- impact on the effectiveness of the MRSDA to address the environmental externalities associated with the minerals industry.

Objective of government action

The objective of government action is to ensure that, through the efficient and effective application of the MRSDA, mineral exploration and economically viable mining 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 are encouraged in Victoria.

The options

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

- The base case – the regulations are allowed to lapse
- Option 1 – The status quo. The existing Minerals Regulations would be renewed in the current form
- Option 2 – Amended Minerals Regulations. The existing Minerals Regulations would be amended. The amendments that have been considered for inclusion under this option can be broken down into: administrative and process amendments and fee amendments. These amendments are not dependent on each other. As such, Option 2 is comprised of three sub options:

- 2a – amendments to administrative and process issues with the fee structure and level of cost recovery as set out Option 1
- 2b – amendments to fees with the administrative and process arrangements as set out in Option 1
- 2c – amendments to both administrative and process issues and to fees

The amendments to administration and process proposed under Option 2 have been kept to the bare minimum in recognition of anticipated impact of the outcomes of the *Inquiry into Greenfields Mineral Exploration and Project Development in Victoria* by the Economic Development and Infrastructure Committee on the MRSDA and the Minerals Regulations. To ensure that the regulations are revisited following the outcomes of the inquiry, Option 2 includes a sunset provision after five years, rather than 10 years as would normally apply under the *Subordinate Legislation Act 1994*.

Methodology for assessing the options

Multi-criteria analysis has been used to assess the fee and non-fee elements of Options 1 and 2. While NPV analysis would be ideal for assessing the non-fee elements of Options 1 and 2 it was not possible because the existing regulations have been in place for some time and hence quantifying the impact of the base case is very difficult. Limited consultation was undertaken with the mining industry in an attempt to estimate the impact of changes to the regulations. During those consultations, stakeholders indicated that the base case (no regulation) was not considered to be realistic and they could not give consideration to what their actions would be in the absence of regulation. In addition, businesses consulted indicated that the impact of the non-fee changes under Option 2 were thought to be relatively minor. As such, there was insufficient data to support NPV analysis for the non-fee elements of the options.

Assessment of the options

The multi-criteria analysis of the options assessed them against the incremental change from the base case, where the Minerals Regulations are allowed to lapse. Consistent with the objectives of cost recovery, and effectiveness objectives more broadly, 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 E.1: Summary of MCA results

Criteria	Weighting	Base case	Option 1		Option 2	
			Non-fee	Fee	Non-fee	Fee
Efficiency	33.3%	0	+5	+7	+6	+10
Equity	33.3%	0	+5	+5	+6	+10
Effectiveness	33.3%	0	+5	+5	+6	+5
Weighted total	100%	0	+5	+5.6	+6	+8.3

Source: Deloitte analysis

Figure E.1 summarises the resulting scores for Option 1 and the three sub-options possible under Option 2.

Figure E.1: Comparison of Options

	Regulations with current administrative and process requirements	Regulations with administrative and process amendments
Regulations with current fees structure and level of cost recovery	10.6 Option 1	11.6 Option 2a
Regulations with new fee structure and level of cost recovery	13.3 Option 2b	14.3 Option 2c

As demonstrated in Figure E.1, this assessment finds Option 2c, which includes both the administrative and process amendments and the fee amendments, is the preferred option by a slim margin. The marginal improvement resulting from Option 2c relative to Option 2b is a reflection of the relatively minor administrative and process amendments proposed under Option 2.

Preferred option

Based on the MCA the preferred option is Option 2c – the amended regulations. In summary, the proposed regulations would remake the Minerals Regulations with amendments to:

- the reporting processes required by the Act;
- licence advertising requirements;
- how royalties are calculated;
- fees to recover the cost of administering the Act and Regulations; and
- other minor technical amendments, including in relation to application requirements, infringements, penalties, the mining register and several other areas.

This conclusion is made on the basis that Option 2c:

- provides the greatest degree of regulatory certainty for businesses to meet their obligations under the MRSDA;
- improves efficiency of reporting requirements by reducing duplications in the annual reporting requirements for holders of mining and prospecting licences and simplifying requirements that are unnecessarily complex;
- provides government with the key data and information it needs to ensure that resources are being used at the lowest possible risk to the environment and community; and
- is designed to achieve 100% cost recovery.

A summary of the effect of the proposed regulations can be found in Appendix C.

Table E.3, Table E.4 and Table E.5 illustrate the cumulative impact of the changes to the fee structure for exploration licences, retention licences and mining licences under the preferred option.

Table E.3: Current and proposed fees and rents for exploration licences – comparison costs for various licence sizes and exploration types (\$2012-13)

Exploration licence size	Standard - 100 km ² , for metallic minerals	Large – 500 km ² , for metallic minerals	Very large – 2000 km ² , for non-metallic minerals
First 5 year term			
Proposed application fee (\$)	\$1,920	\$1,920	\$1,920
Current application fee (\$)	\$1,128	\$1,128	\$4,511
Additional application fee cost (\$)	\$792	\$792	-\$2,591
Proposed new rental cost – total over 5 years (\$)	\$4,510	\$22,550	\$90,200
Total additional cost over 5 years (\$)	\$5,302	\$23,446	\$87,609
Average annual additional cost (\$)	\$1,060	\$4,689	\$17,522
Second 5 year term			
Proposed renewal fee (\$)	\$1,006	\$1,006	\$1,006
Current renewal fee (\$)	\$1,128	\$1,128	\$4,511
Addition renewal fee cost (\$)	-\$122	-\$122	-\$3,505
Proposed new rental cost – total over 5 years (\$)	\$4,510	\$22,550	\$90,200
Total additional cost over 5 years (\$)	\$4,388	\$22,428	\$86,695
Average annual additional cost (\$)	\$926	\$4,534	\$17,339

Source: DSDBI

Notes: The following assumptions have been made: held for 5 year term and renewed for 5 year term, without relinquishments and there are no native title costs.

Table E.4: Current and proposed fees and rents for retention licences - comparison costs for various licence sizes (\$2012-13)

Retention licence size	Standard – 260 ha	Large – 2000 ha	Very large – 5000 ha
Proposed application fee (\$) ¹	\$2,747	\$2,747	\$2,747
Current application fee (\$)	\$1,692	\$13,536	\$33,840
Additional application fee cost (\$)	\$1,055	-\$10,789	-\$31,093
Proposed new rental cost – total over 5 years (\$)	\$3,900	\$30,000	\$75,000
Total additional cost over 5 years (\$)	\$4,955	\$19,211	\$43,907
Average annual additional cost (\$)	\$991	\$3,842	\$8,781

Source: DSDBI

Notes: The following assumptions have been made: the retention licence is held for a 5 year term and no native title costs are included. (1) Application fee includes Mineralisation report surcharge (\$827).

Table E.5: Current and proposed fees and rents for mining licences - comparison costs for various licence sizes and work plan types (\$2012-13)

Mining licence	Standard – 260 ha	Large – 1000 ha	Very large – 2000 ha
Proposed application fee (\$)¹	\$4,204	\$4,204	\$4,204
Current application fee (\$)	\$1,692	\$6,768	\$13,536
Additional application fee cost (\$)	\$2,512	-\$2,564	-\$9,332
Proposed new rental cost – total over 10 years (\$)	\$47,890	\$184,200	\$368,400
Current rental – total over 10 years (\$)	\$97,660	\$375,900	\$751,800
Additional rental – total over 10 years (\$)	-\$49,770	-\$191,700	-\$383,400
Initial work plan	\$9,687 (Cat 4, SE)	\$9,687 (Cat 4, SE)	\$32,291 (Cat 4, EES)
Work plan variation	\$2,995 (Cat 4, no SE or EES)	\$9,981 (Cat 4, SE)	\$9,981 (Cat 4, SE)
Total additional work plan cost (\$)	\$12,682	\$19,668	\$42,272
Total additional cost over 10 years (\$)	-\$34,576	-\$174,596	-\$350,460
Average annual additional cost (\$)	-\$3,457	-\$17,460	-\$35,046

Source: DSDBI

Notes: The following assumptions have been made: Mining licence held for 10 year term, there are no native title costs, including an initial work plan and one typical work plan variation. (1) Application fee includes Mineralisation report surcharge (\$827).

1 Introduction

This section provides the contextual background to this Regulatory Impact Statement, including an overview of the minerals industry in Victoria, the legislative framework for the regulation of this industry, the policy context for the project and the purpose and structure of the report.

1.1 The mining industry in Victoria

Under Victorian legislation, mining refers to extracting minerals from land for the purpose of producing them commercially, and includes processing and treating ore. The Crown is the owner of all minerals in Victoria (unless exempted).

1.1.1 The mining industry

Minerals production in Victoria is dominated by the production of brown coal, gold and mineral sands. In 2010-11 67 million tonnes of brown coal were produced in Victoria, 18,000 ounces of gold and 480,000 tonnes of mineral sands. The production value of various different types of minerals produced in Victoria in 2010-11 is provided in Table 1.1.

Table 1.1: Mineral Production Values: 2010-11 (\$million)

Mineral type	Value
Brown Coal	Not available*
Gold	\$254.9
Heavy Mineral Sands	\$376.8
Feldspar	\$4.5
Gypsum	\$4.2
Kaolin	\$2.2
Total	\$642.6

Source: DSDBI, *Earth Resources Branch Statistical Report 2010-11*, (unpublished)

Note: The coal that is currently produced in Victoria is used for electricity generation close to the point of extraction. It is difficult to transport due to a high water content and propensity for combustion. It therefore does not have an accepted market value.

Most of Victoria's gold production in 2010-11 was from mines owned by Crocodile Gold Corporation and Unity Mining Limited. Other than the three main producers in 2010-11, there were 21 companies who also produced gold in the period, most of them in small quantities.

Brown coal production is dominated by the electricity generation companies in the Latrobe Valley – GDF SUEZ Hazelwood, AGL (Loy Yang) and EnergyAustralia (Yallourn). The other major brown coal miner is Alcoa Australia Ltd, which extracts brown coal at Anglesea to generate electricity for its Point Henry aluminium smelter.

In Victoria in 2010-11, a total of 73 exploration licences and 43 mining licences were granted. Figure 2.2 shows the total number of exploration and mining licences at 30

June from 2005 to 2011. Figure 2.3 shows estimated expenditure associated with these activities over the same period.

Table 1.2: Exploration and Mining Licences at 30 June (2005 to 2011)

	2005	2006	2007	2008	2009	2010	2011
Exploration Licences	203	226	280	326	298	285	302
Mining Licences	266	242	240	236	211	216	218
Total	469	468	520	562	509	501	520

Table 1.3: Expenditure on mineral exploration and mining development (\$million, 2005-06 to 2010-11)

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Exploration	\$88.2	\$105.4	\$107.8	\$103.3	\$94.3	\$64.6
Mining	\$553.0	\$527.8	\$576.6	\$923.3	\$742.0	\$719.2
Total	\$641.2	\$633.2	\$684.4	\$1,026.6	\$836.3	\$783.8

1.2 Legislative framework

The *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) provides the legislative framework for the development and regulation of mineral exploration and the mining industry, including gold, coal, and mineral sands in Victoria.

The purpose of the MRSDA is to encourage mineral exploration and economically viable mining 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.

The MRSDA regulates the grant of licences and other approvals for both exploration and mining and also provides a process for the coordination of applications for related approvals. Other issues such as compensation, rehabilitation and royalties for mineral exploration and development activities and enforcement also fall under the MRSDA.

The following discussion provides an overview of the major elements of the MRSDA as they relate to royalties, licensing and work plans.

1.2.1 Royalties

Royalties are payable for the extraction of all minerals, with the exception of gold. Holders of mining licences and prospecting licences are required to complete a royalty return to determine the amount payable.¹ These returns must also be retained by the licensee.

¹ Though in practical terms, payment of a royalty by a prospecting licence holder is unlikely as there is currently no royalties payable on gold.

1.2.2 Licensing

Mining, exploration and other related activities cannot be undertaken in Victoria without the appropriate licence or authority. There are four main types of licence prescribed under the MRSDA. They are:

- **Exploration licences** – enabling the holder to carry out exploration activities on the land covered by the licence;
- **Mining licences** – enabling the holder to carry out mining, exploration, construction and any other activities incidental to mining on the land covered by the licence;
- **Prospecting licences** – enabling the holder to prospect or explore for minerals, carry out mining activities and other activities that are incidental to mining. Prospecting licences may not be issued for more than five years, cannot be renewed and cannot apply to an area of more than five hectares; and
- **Retention licences** – enabling the holder to retain the rights to a mineral resource that is not currently economically viable to mine, but may be in the future. Retention licences are limited to 10 years and may be renewed twice.

In addition, the MRSDA provides for miner's rights and tourist fossicking authorities, which each allow the holder to search for minerals and keep any minerals they find, subject to the consent of the land owner and the licensee (if there is one).

Application fees are payable for each of the licence types set out in the MRSDA as well as miner's rights and tourist fossicking authorities.

Licences are subject to conditions imposed by the Minister, including in relation to the rehabilitation of the land, protection of the environment, protection of groundwater, the work to be undertaken, expenditure by the licensee, reporting requirements, payment of certain fees, bonds and levies and royalties, access requirements and the protection of community facilities.

1.2.3 Work plans and authorities

In addition to holding one of the licences discussed above, a licensee must lodge a work plan with DSDBI, have that work plan approved and possess the appropriate work authority before they can commence most exploration or mining activities. Work plans for mining activities require the completion of a rehabilitation plan, an environmental management plan and a community engagement plan. There are also a number of additional information requirements relating to mine stability for declared mines.²

1.2.4 Subordinate legislation

The MRSDA is supported by the Mineral Resources Development Regulations 2002 (Minerals Regulations). The Minerals Regulations specify:

- How royalties should be calculated, when they should be paid, how a gigajoule unit of lignite is measured for the purpose of the coal royalty calculation;
- Information requirements for licence applications and the renewal of licences;
- Information requirements for work plans for mining, prospecting, exploration and retention licences;

² There are currently three declared mines in Victoria. They are all LaTrobe Valley coal mines.

- What constitutes a reportable event, what information is required and what processes are to be followed in this instance;
- How and when to advertise a licence application;
- Marking out and survey of licence areas;
- Information to be included in the mining register;
- Reporting requirements (i.e. technical exploration and expenditure/activities report);
- Requirements for declared mines, including the Mine Stability Levy payable;
- Requirements for officers who are required, under the MRSDA, to disclose any interests;
- Fee units to be charged in relation to mining and exploration activities; and
- The penalties applying for the range of offences and infringements.

The Minerals Regulations came into effect on 28 October 2002, with a provision for them to sunset after ten years. The Minerals Regulations were extended for 12 months, until 21 October 2013, to review the suitability of the regulations and identify any appropriate regulatory amendments.

1.3 Policy context

Two major reviews of mineral and extractives regulation have recently been undertaken in Victoria that will result in changes to legislation and regulations, namely:

- The second phase of the review of the **Mineral Resources (Sustainable Development) Act 1990 (MRSDA)** – referred to as MRSDA Review Phase 2; and
- The Government preparing a response to the Parliamentary **Economic Development and Infrastructure Committee (EDIC)** report for the *Inquiry into Greenfields Mineral Exploration and Project Development in Victoria*.

1.3.1 Second phase of the review of the MRSDA

The second phase of the MRSDA Review focuses on the legislative framework governing the minerals and extractives sectors, with a view to reducing the regulatory burden associated with work authorisation and government approvals processes. Reform proposals were developed during 2011 through an intensive consultation program involving other government agencies, industry and community groups.

In late 2011, further action on the MRSDA Review was suspended pending the outcomes of the EDIC Inquiry - as there was significant overlap in terms of references for these processes.

1.3.2 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, Minerals Regulations and Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010 (the Extractives Regulations), publication of guidelines and other informational material and introduction of new administrative procedures. As such, the nature of amendments being progressed under the remake of the Minerals Regulations has been kept to a minimum.

1.3.3 VEAC Investigation

The Minister for Environment and Climate Change, the Hon. Ryan Smith MP, requested the Victorian Environmental Assessment Council (VEAC) to undertake the Investigation into Additional Prospecting Areas in Parks on 25 October 2012. The report was publicly released 7 June 2013. The purpose of the report was to investigate and make recommendations on which areas (in general terms) of Alpine, Baw Baw, Croajingolong, Errinundra, Lake Eildon, Lind, Mitchell River and Yarra Ranges national parks and Lerderderg State Park could be made available for recreational prospecting. The Government's response to the VEAC recommendations is currently being considered and has not been incorporated into these regulations.

1.4 Purpose and structure of report

The *Victorian Guide to Regulation* requires that regulation should not be introduced, remade or adjusted without clear justification. The focus of this Regulatory Impact Statement (RIS) is on the sunseting Minerals Regulations. Its role is to assess if there is a need for government intervention resulting from problems to which the market will not, on its own, provide a satisfactory response.

The remainder of this report is structured as follows:

- Chapter 2: identifies the nature and extent of problem
- Chapter 3: outlines the options to be assessed through the analysis
- Chapter 4: contains an assessment of the 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.
- Appendix C: outlines the effect of the proposed regulations.

2 The nature and extent of the problem

This chapter outlines the nature and extent of the problem that may require government intervention.

2.1 Assessing the need for government intervention where regulations are sunseting

Best practice regulation aims to address failures pertaining to market outcomes at minimum cost to consumers and industry.

In order to make a case for government intervention, it must first be established what problem the proposed regulations are seeking to address. In the case where regulations are due to sunset, the role of the RIS is to determine whether there remains a case for government intervention (as represented by the sunseting regulations) – that is, whether the problem for which the sunseting regulations were established still applies. In this context, assessing the nature and extent of the problem should consider the need for regulations on a ‘first principles’ basis (rather than assessing whether current regulations should be amended).

In this RIS, the analysis of the problem focuses on a scenario where the regulations are not remade and current legislation and regulations are used (in their current form) to achieve the government objective.

If the Minerals Regulations were allowed to lapse companies undertaking mining and minerals exploration would continue to be required to pay royalties, be required to hold a licence or authority to undertake prescribed activities and lodge a work plan before most exploration or mining activities may commence as required by the MRSDA. However, without the Minerals Regulations there would be no supporting legislation to establish the processes for meeting these requirements.

If the regulations were allowed to lapse it is anticipated that the Government would need to develop non-binding guidelines for many of the areas that are currently prescribed in the Minerals Regulations. In most cases this would be inappropriate. For example:

- In the case of ‘reportable events’ guidelines would not be adequate as the MRSDA requires that reportable events are ‘prescribed’. If the regulations do not prescribe what are ‘reportable events’ enforcement of these requirements will be problematic as guidelines are non-binding and an operator’s application or adherence to the guidelines may result in a failure to report and appropriately reportable event. If an operator does not report an event there is no way for the regulator to ascertain whether adequate risk management procedures are being implemented to minimise the impact of the event or to reduce the likelihood of reoccurrence. This would not

provide sufficient assurance to the Government or the public that risks will be reported.

- In the case of licensing and work-plan decisions, the use of administrative guidelines is also contrary to the intention of the MRSDA. Guidelines are not subject to the scrutiny of regulations made through the RIS process, and are not binding on regulators. Within the parameters of the MRSDA, regulators could also have virtually unlimited discretion to approve or not approve plans and to award or not award licences.

As such, if the Minerals Regulations lapse, businesses, the public and regulators will be faced with greater uncertainty regarding businesses' obligations and the decision making process by government.

2.2 Problems associated with greater regulatory uncertainty

Greater regulatory uncertainty could generate an increase in the cost of compliance for business through:

- Compliance with requirements in the MRSDA;
- Greater risk of arbitrary or inconsistent decision making; and
- Over compliance.

In addition, without the Minerals Regulations it is likely to be more difficult, and more costly, for the Victorian Government to monitor and assess compliance with relevant legislation and performance against certain objectives. The following sections discuss the problems associated with greater regulatory uncertainty for businesses and government further.

2.2.1 Impact on businesses

The requirement to pay royalties, hold licences for certain activities and develop work plans is set out in the MRSDA with specifications for compliance set out in the Regulations. In the absence of the regulations, it will not be clear to businesses how to ensure that they are complying with the MRSDA. Some businesses will have a high risk aversion to being found non-compliant with the Act. This will result in some businesses over investing in compliance by collecting and providing the Government with unnecessary information, developing overly detailed work plans and seeking extensive consultation with DSDBI to ensure that they are meeting their legal obligations.

While some businesses may choose to invest heavily in ensuring compliance with the law irrespective of the existence or otherwise of the regulations, if the Minerals Regulations lapse there is a potential for businesses behaving in this manner to increase. This increase is a result of the increased ambiguity in how obligations are communicated to business.

As noted above, the Government would, in the absence of the Minerals Regulation, develop guidelines for business. However, these guidelines could be subject to change without notice. This will create a greater risk of arbitrary or inconsistent decision making. Even if the government continued to regulate mining and extractives requirements in a consistent manner the potential risk can have an impact on how businesses invest in and plan mining projects.

These uncertainties have the potential to result in businesses devoting a longer time period to approval which can lead to large delay costs, given the capital intensive nature of the business. It can also have the potential to influence future investment decisions. Analysis for the minerals sector by the Australian Bureau of Agriculture and Resource Economics examined the issues of regulatory uncertainty acting as impediments to investment decisions. The report found that 'the results of the 2006-07 Fraser Institute survey of mining companies indicated that transparency and certainty of regulations is potentially one of the largest single deterrents to investment in the minerals sector in all APEC economies.... It demonstrates that companies are sensitive to regulatory uncertainty and that transparency of regulation arrangements could be improved by all APEC economies'.

2.2.2 Impact on government

Without the Minerals Regulations the government will need to:

- Invest in its own internal guidelines and directions to set standards for calculating royalties; and
- Spend more time communicating the requirements of the MRSDA to business and working with them to ensure compliance.

In addition, there is a greater risk that the government will need to engage either internal or private legal specialists to assess whether businesses are compliant with particular requirements of the MRSDA and to enforce offence provisions.

The MRSDA sets out a range of offences relating to mining activities and allows infringement offences to be prescribed in the Regulations (both in relation to offences in the MRSDA and any offences prescribed in the Regulations). The Minerals Regulations set out the relevant offences for which an infringement notice may be issued and the related penalty. Guidelines issued by the Attorney General provide a guide for determining the type of offences that may be suitable for infringement. In the absence of infringement offences, DSDBI would not have as broad a hierarchy of enforcement options available, which would mean that to enforce an offence provision would require prosecution which can be costly and time consuming for all relevant parties.

2.3 Secondary issues

In addition to the problems associated with greater regulatory uncertainty discussed above, there is the potential that these uncertainties or potential inconsistencies may impact on the effectiveness of the MRSDA to address the environmental externalities associated with the minerals industry.

The minerals industry involves the clearing of sites, the establishment of access roads, the use of heavy machinery and the use of explosives that leave large open pits in the ground. There are a number of potential external costs associated with the minerals industries, which provide the rationale for the ongoing regulation of that industry. These external costs and their causes include:

- Public safety costs – for example the risk to life as a result of a mine collapse;
- Costs to communities – costs to those in close proximity to these industries, for example as a result of noise, dust or vibrations; and

- Costs to the environment – costs associated with pollution or environmental damage that occurs as a result of activity in these industries. For example, in the absence of any regulation, sites exhausted of minerals may not be properly rehabilitated and might therefore pose environmental risks.

These are discussed in more detail below. It should be noted that the increase in the level of risk for externalities is likely to be very low because the MRSDA will continue to regulate mining and exploration activities. The increase in these risks resulting from the Minerals Regulations sunseting is therefore considered a second order issue.

2.3.1 Public safety

Minerals industries can pose risks to the public in terms of health, injuries and fatalities. Examples of public safety risks include:

- Ground instability (where slope failures may be caused by inadequate management of ground water, inadequate management of blasting practices, or natural geological and hydrogeological factors);
- Operational impacts (where flyrock from blasting could strike members of the public); and
- Rehabilitation failure (where rehabilitation of a site exhausted of minerals is not completed properly).

2.3.2 Community disturbance

Minerals industries can pose disturbances to the local community, including from:

- Vibrations (resulting from blasting and which can cause damage such as to windows and walls of private property and community facilities); and
- Dust and excessive noise (also resulting from blasting which can impact the health and amenity of nearby communities).

2.3.3 Environment

Minerals industries can pose risks to the environment and natural resources. Examples of environmental risks include:

- Erosion and removal of native vegetation (resulting from the clearing of sites and contributing to a loss of vegetation species, habitat and biodiversity); and
- Impacts on water quality (resulting from fuel and chemical contamination or erosion and affecting both ground water and surface water quality).

2.4 Objectives of government intervention

This section sets out the objectives for government intervention.

The *Subordinate Legislation Act 1994*³ requires a RIS to include a statement of the objectives for the proposed regulations. These objectives should be closely related to the objectives of the Act authorising the proposed regulations⁴ and should be consistent

³ In particular, sections 10(1)a and 12H(1)a of the *Subordinate Legislation Act 1994*.

⁴ Victorian Competition and Efficiency Commission, *Victorian Guide to Regulation: Edition 2.1, August 2011*.

with, or contribute to, the achievement of the government's strategic policy aims. Some proposed measures may have several objectives and where this is the case, the statement must identify a primary objective. The objectives should be stated in terms of the ends to be achieved rather than the means of their achievement. In other words, they must be specified in relation to the underlying problems that have been identified above.⁵

The objectives are important as they help to assess whether the options have been appropriately selected as a means of addressing the underlying problems. In addition, a main criterion for assessing the options is their relative cost-effectiveness in achieving this objective.

The objectives of this Act are-

- a) to encourage and facilitate exploration for minerals and foster the establishment and continuation of mining operations by providing for-
 - (i) an efficient and effective system for the granting of licences and other approvals; and
 - (ii) a process for co-ordinating applications for related approvals; and
 - (iii) an effective administrative structure for making decisions concerning the allocation of mineral resources for the benefit of the general public; and
 - (iv) an economically efficient system of royalties, rentals, fees and charges; and
- b) to establish a legal framework aimed at ensuring that-
 - (i) mineral and stone resources are developed in ways that minimise adverse impacts on the environment and the community; and
 - (ii) consultation mechanisms are effective and appropriate access to information is provided; and
 - (iii) land which has been mined or from which stone has been extracted or removed is rehabilitated; and
 - (iv) just compensation is paid for the use of private land for exploration or mining; and
 - (v) conditions in licences and approvals are enforced; and
 - (vi) dispute resolution procedures are effective; and
 - (vii) the health and safety of the public is protected in relation to work being done under a licence; and
- c) to recognise that the exploration for, and mining or extraction of, mineral resources and stone must be carried out in a way that is not inconsistent with the *Native Title Act 1993 of the Commonwealth and the Land Titles Validation Act 1994*.⁶

The objective of the proposed regulations is to ensure that, through the efficient and effective application of the MRSDA, mineral exploration and economically viable mining industries which make the best use of, and extract the value from, resources in a way

⁵ Victorian Competition and Efficiency Commission, *Victorian Guide to Regulation: Edition 2.1, August 2011*.

⁶ Section 2, *Mineral Resources (Sustainable Development) Act 1990*.

that is compatible with the economic, social and environmental objectives are encouraged in Victoria. In particular, the objective of the proposed regulations is to:

- Provide clarity and regulatory certainty for business regarding compliance and enforcement of the MRSDA; and
- Safe guard Victoria against potential environmental, community and public safety externalities resulting from the inconsistent application of the MRSDA to specific projects.

3 Options that may achieve the objectives

This chapter outlines the different options that have been considered to address the problem as defined in the previous chapter and achieve the government objective.

3.1 Introduction

As part of the RIS process, it is necessary to describe and consider the different options that can be used to achieve the stated objective. The Victorian Department of Treasury and Finance's (DTF) *Victorian Guide to Regulation* recommends that the options considered represent the spectrum of regulatory approaches including explicit government regulation, co-regulation and non-regulatory approaches.

Three options have been considered. They are:

1. The base case – no regulations
2. The status quo – existing Minerals Regulations
3. Amended Minerals Regulations including but not limited to changes to:
 - a. specific advertising and reporting requirements; and/or
 - b. the fee structure and level of cost recovery

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. In the case of sunseting regulations, the *Victorian Guide to Regulations* states the base case must be that the regulations are allowed to lapse.

As discussed in Chapter 2, if the Minerals Regulations are allowed to lapse businesses would continue to be required to comply with the requirements set out in the MRSDA, however, there would be less clarity around what constituted compliance. Under the base case there would be greater risk of arbitrary or inconsistent decision making. This may make Victoria a less attractive location for investment in minerals exploration and mining. It may also, at the margin, increase the risk of detrimental outcomes for the public and the environment from mining and minerals exploration.

Under the base case, DSDBI would only collect fees which are defined in the MRSDA, such as the licence rents. The level of cost recovery would be calculated and collected on a more ad-hoc basis than currently exists. Government would be required to negotiate with each licence holder to determine an appropriate rent.

3.3 Option 1 – The status quo

Under this option the existing Minerals Regulations would be renewed in the current form. The regulations would continue to make provisions in relation to:

- Royalties;
- Licensing;
- Work plans;
- Reporting arrangements;
- Advertising of licence applications;
- Cost recovery (fees);
- Enforcement; and
- Other areas contained in the regulations.

Under the current regulations issues have arisen in relation to reporting requirements for mining and prospecting licences; licence advertising requirements; reporting and measurement requirements for lignite royalties; and the level of cost recovery. Each of these issues is discussed in more detail below.

3.3.1 Reporting requirements

Under the current regulations there are duplications in the annual reporting requirements for holders of mining and prospecting licences. There are also a range of requirements that either do not meet the requirements of DSDBI or are unnecessarily complex. The table below sets out these issues.

Table 3.1 Issues identified with annual reporting requirements

No.	Issue	Type
1	There is duplication in the reporting of some environmental requirements. These requirements are currently reported to the EPA and through quarterly Environmental Review Committee reports.	Duplication
2	Providing the 'results of environmental monitoring' is unnecessary complex and leads to voluminous data reporting	Complexity & duplication
3	Reporting on expenditure does not clearly identify the expenditure related to mining activities, distinct from other expenditure that mining companies incur	Information does not meet requirements
4	The information currently reported on site disturbance and rehabilitation does not collect data that is compatible with calculation of the rehabilitation bond using the rehabilitation bond calculator	Information does not meet requirements
5	The expenditure reporting requirements for holders of prospecting licences are structured in a way that some of the information provided is not currently used and the break-down of information is unnecessarily complex.	Complexity and information does not meet requirements

No.	Issue	Type
6	The categories for 'reportable events' require all breaches and non-compliances to be reported, rather than just those that pose a risk to the environment, public safety or infrastructure.	Information does not meet requirements

3.3.2 Advertising requirements

Under the current Minerals Regulations applicants for exploration, retention, mining and prospecting licences are required to advertise prescribed information in local newspapers. Exploration, retention and mining licence applicants are also required to advertise in a State newspaper.

The current arrangements do not take into account changes in technology and the way people access information that have occurred since the Minerals Regulations were written. The advertisements could contain more useful information about the proposed activities, including to clarify the differences between 'mining' and 'exploration' under the MRSDA to ensure the public is properly informed about the nature of work that may take place on a licence, and remove certain prescriptive requirements.

3.3.3 Royalties for lignite

In Victoria the royalties for lignite are set out in the MRSDA and further details on the calculation method are provided in the Minerals Regulations. These requirements are based on the energy value and tonnage of the coal when mined.

Under the MRSDA and the Minerals Regulations royalties are payable annually (for the period 1 July – 30 June) and are determined as follows:

$$\text{Royalty payable} = \$0.0588 \times \text{NWSE} \times \text{Volume of coal} \times \text{Density of coal} \times \text{A/B}$$

Where:

- **NWSE** is the average Net Wet Specific Energy of the coal mined in the year for which the royalty is being calculated (expressed in MJ/kg);
- **Volume of coal** mined is the volume mined in the year for which the royalty is being calculated (expressed in cubic metres);
- **Density of coal** is the average density of coal mined in the year for which the royalty is being calculated (expressed in tonnes per cubic metres);
- **\$0.0588** is the base amount specified in the Act;
- **A** is the *All Groups Consumer Price Index for Melbourne* for the quarter ending on 30 June immediately preceding the financial year for which the royalty is being calculated; and
- **B** is the *All Groups Consumer Price Index for Melbourne* for the quarter ending 30 June 2005.

Three of these variables (NWSE, volume, and density) vary depending on the nature of the coal extracted and need to be determined annually. The CPI indices are published by the Australian Bureau of Statistics, and the base amount is legislated.

Historically there have been some differences between how the three Latrobe Valley mines have determined NWSE and density. This creates inconsistency and inequity in the level of royalty payable by coal producers.

3.3.4 Current fee structure

Broadly speaking, the current fee schedule consists of a range of transaction fees and fixed periodic charges, as follows:

- Transaction fees – some of these vary depending on the size of the site/operation, the term of the right/authority in years or the number of copies/pages requested; and
- Periodic charges – these are referred to as ‘rents’ in the Minerals Regulations and are charged according to the number of hectares covered under a mining and prospecting licence.⁷ Periodic charges do not currently apply to exploration and retention licences.

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

Table 3.2: Existing fees under the Minerals Regulations (2011-12)*

Description	Fee units	Amount
Minerals Regulations		
Application fee for Exploration Licence (per 500 square kilometres)	90.0	\$1,099.80
Application fee for Mining Licence per 260 hectares	135.0	\$1,649.70
Application fee for Prospecting Licence	40.0	\$488.80
Application fee for Retention Licence per 260 hectares	135.0	\$1,649.70
Application fee for a Miner's Right that will be current for a time not exceeding 2 years	2.5	\$30.60
Application fee for a Miner's Right that will be current for a time greater than 2 years but not exceeding 10 years	7.0	\$85.50
Application fee for Tourist Fossicking Authority (2 year term)	30.0	\$366.60
Application fee for Tourist Fossicking Authority (10 year term)	40.5	\$494.90
Application fee for Mining Licence Renewal per 260 hectares	85.0	\$1,038.70
Application fee for Exploration Licence Renewal (per 500 square kilometres)	90.0	\$1,099.80
Application fee for Retention Licence Renewal per 260 hectares	85.0	\$1,038.70
Rent for a Mining Licence (per hectare)	1.5	\$18.30
Rent for a Prospecting Licence (per hectare)	1.5	\$18.30
Application fee for variation of a licence	10.0	\$122.20
Application fee for transfer of a licence	30.0	\$366.60
Amalgamation of a licence under section 36 of the Act made at the request of the licensee	30.0	\$366.60
Access to mining register	2.5	\$30.60
The fee for the provision of information under section 74(1)(b) of the Act is \$8.00 for the first printed page and \$1.00 for each additional printed page.		\$8.00
The fee for the provision of a copy of a licence under section 74(1)(c) of the Act is \$8.00.		\$8.00

⁷ Note that, in the context of the legislative framework for mineral resources, the term ‘rent’ refers to a periodic charge for the purposes of cost recovery, not an economic (or scarcity) rent. In particular, the second reading speech for the Minerals Resources (Sustainable Development) Bill stipulates that licence rentals should be paid on all licence types, not just mining licences, and that rentals should be payable from registration of the licence, rather than from registration of the work authority. It also states that this is to ensure an appropriate level of cost recovery for administrative activities. Source: (Minister for Energy and Resources, House of Assembly Second Reading Speech for Minerals Resources (Sustainable Development) Bill, 28 July 2010, p. 2760)

Description	Fee units	Amount
The fee for the provision of a copy of a work plan or a variation to a work plan under section 74(1)(d) or 74(1)(e) of the Act is \$8.00 for the first printed page and \$1.00 for each additional page or \$2.00 for each additional page printed in colour.		\$8.00
The fee for a certificate of information issued by the Department Head under section 76 of the act is 2.5 fee units	2.5	\$30.60

Note: *Fees 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.

An assessment of the level of cost recovery for the Minerals Regulations and the Extractives Regulations undertaken for DSDBI has found that only 69% of recoverable costs for the Minerals Regulations are currently being collected. As such, 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 3.4, Table 3.5 and Table 3.6 provide detail with regards to these limitations.

Appendices A and B provide further detail on the methodology for defining what activities undertaken are cost recoverable and the estimated cost base and the allocation of costs to fees.

3.4 Option 2 – Amended Minerals Regulations

Under Option 2 amended Minerals Regulations would be adopted. The amendments that have been considered for inclusion under this option can be broken down into:

- Administrative and process amendments, including:
 - Changes to reporting requirements for mining and prospecting licences
 - Changes to licence advertising requirements – including consideration of both a performance based standard and a prescribed standard
 - Changes to reporting and measurement requirements for lignite royalties
- Fee amendments

In addition to the options listed above, the proposed administrative and process amendments include other minor and technical changes. These changes affect application requirements, infringements, penalties, the mining register and several other areas. These are not considered closely in the RIS due to the minimal impact they are likely to have on the regulatory costs of mining companies or resulting benefits. For example, in the case of changes to application requirements, the information sought is not substantively different and will not significantly alter the way applications are made compared to the status quo.

As noted in Chapter 1, the EDIC and MRSDA Phase 2 processes are ongoing. It is proposed that the content of the Minerals Regulations (and also the Extractive Regulations) would be revisited as required in light of the outcomes of the Government Response to the EDIC Inquiry and the MRSDA Phase 2 Review legislative and administrative processes. To ensure this occurs, Option 2 includes a sunset provision after five years, rather than 10 years as would normally apply under the *Subordinate*

Legislation Act 1994. In addition, in consideration of the on-going review process and the changes which will result from that process to the MRSDA and the Minerals Regulations, the process and administrative changes have been kept to a bare minimum. As such, the majority of the administrative and process requirements proposed under the amended regulations are the same as those under Option 1.

The administrative and processes amendments and fee amendments are not dependent on each other. As such, Option 2 is comprised of three sub options:

- 2a – amendments to administrative and process issues with the fee structure and level of cost recovery as set out Option 1
- 2b – amendments to fees with the administrative and process arrangements as set out in Option 1
- 2c – amendments to both administrative and process issues and to fees

The figure below illustrates how the administrative and process amendments and fee amendments might be combined. These amendments are described in further detail below.

Figure 3.1: Matrix of amendments under this option

	Regulations with current administrative and process requirements	Regulations with administrative and process amendments
Regulations with current fees structure and level of cost recovery	Option 1	Option 2a
Regulations with new fee structure and level of cost recovery	Option 2b	Option 2c

3.4.2 Administrative and process amendments

The amendments to administration and process proposed under Option 2 have been kept to the bare minimum in recognition of anticipated impact of the outcomes of the EDIC Inquiry on the Minerals Regulations. The majority of the administration and process requirements under Option 2 remain the same as those under Option 1. The administrative and process amendments include proposed changes to:

- reporting requirements for mining and prospecting licences
- licence advertising requirements, including the consideration of a performance based standard and a prescribed standard
- reporting and measurement requirements for lignite royalties

The three proposed changes to the regulations are independent of one another and are discussed below.

Reporting requirements

The changes to reporting arrangements included in the proposed regulations are outlined below.

Expenditure and activities returns for mining and prospecting licences

1. Remove certain environmental reporting requirements:
 - Details of any failure to meet site-specific environmental targets
 - Details of any unauthorised discharges or failure to meet statutory requirements
 - Details of complaints received and corrective actions undertaken
 - Details of any environmental management initiatives implemented.
2. Replace requirement to provide 'results of environmental monitoring' (8c) with a requirement to submit a simple compliance report outlining the level of compliance with environmental monitoring requirements under the work plan / licence conditions. The licensee would not be required to report non-compliances that have already been reported to DSDBI in accordance with the reportable events provisions.

Expenditure and activities returns for mining licences only

3. The inclusion of a new requirement to report on expenditure on mining activities undertaken during the reporting period.
4. A modified requirement to report on total site disturbance and rehabilitation would require a break-down for the relevant areas of tailings dams, pits, waste rock dumps, infrastructure. This is designed to assist calculation of the rehabilitation bond (the categories are intended to reflect the bond calculator categories).

The intent of having the annual report of the area disturbed aligned with how Earth Resources Regulation Victoria (ERRV) calculates rehabilitation bonds is to better manage the bond review process, and where possible, reduce the need and frequency of on-site bond assessments. However, the information provided in the annual reporting would not necessarily be determinative of the end bond amount. ERRV will continue to consult on a case by case basis with tenement holders in relation to bond adjustments to discuss any circumstances that may be relevant to finalising the bond.

Expenditure and activities returns for prospecting licences only

5. Reporting on expenditure and activities would be simplified – the licensee would need to report total expenditure for each of exploration and mining, office-based costs and wages and salaries, rather than report separately against administrative costs, plant, equipment and machinery, and each of the headings in the exploration reporting schedule.

Changes relating to reportable events at mines

6. The definition of 'Reportable events' would be amended so that a breach of a condition or non-compliance with a work plan only needs to be reported where there is an associated risk or likely risk to the environment, public safety or infrastructure.

For example, a standard condition applied to work under licences relates to noxious weeds and pests. This condition states that a work authority holder must establish and implement a program to control and/or eradicate noxious weeds and pest

animals within the work authority area and take measures to prevent their spread. Under the current Minerals Regulations the presence of weeds could technically be deemed a reportable event. In reality the regulator does not expect to be notified of the presence of weeds but would expect there to be a weed management program which, if big enough, would be reported on in the annual report.

While under Option 3, the presence of weeds would not be a 'reportable event', it is important that weed activities remain in the work plan and a report of the non-compliance made through annual reporting mechanisms to ensure that trends in non-compliance issues could be identified.

Advertising requirements

Two approaches were considered for amending advertising requirements:

1. The first option is the introduction of a performance-based standard to ensure that all relevant information about the licence application – including the details of work program, community consultation and management of risks – is available to affected communities. This would be a less prescriptive option than the current requirements. The suggested approach to advertising would be set out by DSDBI in guidelines. However, these would not be enforceable.
2. The second option is the introduction of a requirement to insert a notice in a State and local newspaper (Wednesday edition) with additional information about the application (details of work program, community consultation and management of risks) to be published on website, or if a website is unavailable, in the newspaper notice or by another approved means. These requirements would apply for all licence applications except for prospecting licences. Prospecting licence applicants would not be required to provide information on a website and would only need to insert a notice in the local newspaper.

The notice would be similar in form to the existing notice, though would include a cross-reference to the Department's website for further general information, clarify that work may not be undertaken on the licence until a work plan approved, and would remove some overly-prescriptive wording in mining and prospecting licences.

Overall, the more prescriptive option (sub option 2) is preferred to the performance based option (sub option 1). Prescribing advertising requirements has the advantage of providing certainty for mining businesses, local communities and other affected parties. The performance based approach would also require significant effort on the regulators behalf to ensure that each licence application was sufficiently advertised and met the needs of the local community. Initial feedback from the industry suggested that a minority of mining businesses would have to incur the cost of establishing a website under this option. As a result, the option provides the flexibility of advertising through 'another method approved by the Department Head.'

Sub option 1 is not considered further in this analysis.

Royalties for lignite

The proposed amendments would implement a methodology that was developed in consultation with relevant coal companies. This would ensure that all coal producers in Victoria calculate royalties in a consistent manner. In particular, it would:

- Prescribe the Australian Standard AS 1038.5-1998 as the method for converting gross energy value to net energy value;
- Prescribe a particular formula for calculating the relevant density of the coal for the purposes of calculating the gigajoule units of lignite produced. The formula would require the licensee to take the weighted average true density of composite coal samples each month during the period for which the royalty is being paid, with analysis performed using an accepted industry helium displacement method, calculated to three decimal places;
- Provide that volume measurements for the purpose of measuring the gigajoule units of lignite produced would be based on volumetric survey measurements (as currently applies); and
- Clarify that historic drill hole data would be accepted for the purposes of determining the net wet specific energy of the coal and the average in situ moisture content (the latter being required to input into the formula for determining the density of the relevant coal).

3.4.3 Fees amendments

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; and
- Different levels of cost recovery (including 100 per cent cost recovery).⁸

For the purposes of this RIS, the fee options do not explore different levels of regulatory activity. The proposed new fee structure is discussed below.

Proposed new fee structure

Under Option 2, the structure of fees under the Minerals 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 minerals industry regulatory activities and minimises cross-subsidies between different participants in the industry.

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

- Fees should reflect the effort involved in the associated regulatory activity(ies); and
- 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, minerals regulatory effort can be categorised into three broad areas:

⁸ Department of Treasury and Finance, (2011), Op cit.

- Processing of applications and requests (mostly licences) – 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; and
- Compliance and enforcement – includes a broad range of ongoing activities that do not typically vary in effort depending on the nature of the regulated operation in question.

Activities included within these categories are outlined in Table 3.3. 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 3.3: Categorisation of minerals 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 licences (ELs, RLs, MINs, and PLs)¹ • Processing new Miner’s Rights and Tourist Fossicking Authorities • Processing licence renewals (ELs, RLs and MINs)¹ • Processing licence transfers/variations/amalgamations • Processing licence cancellations/surrenders • Provision of information/copies (incl. access to Mining Register and rural conveyancing) • Investigations by the Mining Warden 	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 • Assessing, endorsing and 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 liabilities² • Processing annual returns² 	Low	Ongoing

Notes: (1) EL (Exploration licence), RL (Retention Licence), MIN (Mining Licence), PL (Prospecting Licence). (2) Although these activities could be classed as transactional in nature, they are more appropriately classed in this category as they are ongoing activities.

Proposed changes to fees for applications and requests

A number of limitations associated with the current fees for applications and requests are outlined in Table 3.4. The table also includes proposed changes to address these limitations.

Table 3.4: Limitations associated with current fees and proposed changes – applications and requests

Limitation	Proposed change
Exploration Licence, Retention Licence, Prospecting Licence and Mining Licence application fees are expressed on an area basis. However, DSDBI effort in processing these applications typically does not vary according to site area.	Express these as a flat fee (i.e. not on a per square km or ha basis)
In the instance that a licence application involves Native Title considerations and/or a Mineralisation Report (for RLs and MINs), the effort involved can be much more significant and associated costs are not currently being recovered	Charge an additional fee (or surcharge) for licences when Native Title considerations are present and/or a Mineralisation Report is required
Miner's right and Tourist Fossicking Authority application fees are expressed on the basis of whether they are for a 2 year term or a 10 year term. However, DSDBI effort in processing these applications typically does not vary according to term length.	Express these as a flat fee (i.e. not on a per 2 or 10 year term basis)
There is a degree of duplication among fees relating to requests for information/copies (i.e. fees are for the same thing and have the same amount)	Merge these three fees together into one information/copy request fee
Certain cost recoverable activities that require DSDBI effort do not currently have a fee associated with them.	Introduce new fees for the assessment of Impact Statements (s.41A of the MRSDA) Recover the costs of Mining Warden disputes not involving the Government from Mining rents

Proposed changes to fees for assessment/approval of Work Plans

Fees are not currently charged for the approval of minerals Work Plans. Table 3.5 outlines the proposed changes to address these limitations.

Table 3.5: Limitations associated with current fees and proposed changes – Work Plans

Limitation	Proposed change
Fees are not currently charged for the assessment, endorsement and approval of minerals Work Plans and Work Plan variations despite the significant effort involved	Introduce a new fee for minerals work plans (both new and variations). Structure these fees so that they vary depending on the nature of the operation in question (see below) In the instance that work plans relate to exploration work, recover the associated costs from annual rents rather than a specific fee as exploration work typically requires regular ongoing work plan approvals and variations.
Work plans require a greater degree of effort when a planning permit (Statutory Endorsement) or Environment Effects Statement is involved	Charge a higher fee amount for Work Plan applications involving Statutory Endorsement or an Environment Effects Statement

To reduce the risk of cross-subsidies between different classes of operations within the minerals industries, 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 DSDBI 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, DSDBI developed an approach to structuring work plan fees based on a combination of these proxy measures. In developing these approaches, DSDBI 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 mining work plan 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 (based on 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. 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.

Proposed changes to fees for compliance and enforcement

A number of limitations associated with the current compliance and enforcement fees are outlined in Table 3.6. The table also includes proposed changes to address these limitations.

Table 3.6: Limitations associated with current fees and proposed changes – compliance and enforcement

Limitation	Proposed change
There is no direct link between current fees and the recovery of compliance and enforcement costs	Link the recovery of compliance and enforcement costs to specific fixed rents
The cost of ongoing minerals compliance and enforcement activities are currently only recovered from holders of Mining and Prospecting Licences (i.e. through annual rents)	Introduce the following rents to recover associated compliance and enforcement costs: Rent for an Exploration Licence that includes the cost of work plans (which are submitted more frequently for Exploration Licence holders) Rent for a Retention Licence that includes the cost of work plans (which are submitted more frequently for Retention Licence holders)

Summary of proposed structure

The proposed fee structure for minerals industry fees is summarised in Table 3.7.

Table 3.7: Proposed fee structure

Fee type	What costs are covered	Proposed changes
Applications for licences	Covers the cost of processing licence 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) Introduce a surcharge that applies if Native Title is involved Introduce a surcharge that applies if a Mineralisation Report is involved
Rents*	Covers the cost of ongoing monitoring, inspection, audit, compliance, complaint handling and bond management activities etc.	<ul style="list-style-type: none"> Introduce rents for exploration licences and retention licences that includes the cost of work plans (which are submitted more frequently for exploration and retention licence holders) – to be charged according to site area

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 mining work plans or work plan variations – to be charged according to the nature of the operation in question Introduce a higher fee that applies for mining work plans involving a planning permit (statutory endorsement) Introduce a higher fee that applies for work plans involving an Environmental Effects Statement

Notes: *In the context of the legislative framework for mineral resources, the term 'rent' refers to a periodic charge for the purposes of cost recovery, not an economic (or scarcity) rent. Rents are only applicable to holders of minerals-related licences, so do not apply to extractive industry work authorities.

Proposed new schedule of fees

The proposed new fees are largely different to the existing fee amounts (Option 1). Many of the proposed fees represent a significant increase relative to the existing fees. This is a result of the current under recovery of costs. As stated previously the current level of cost recovery is only 69%. Increases have been particularly large for the:

- Application fee for Mining Licence (100 per cent increase);
- Application fee for Exploration Licence (70 per cent increase);
- Application fee for variation of a licence (186 per cent increase).

There are also some proposed fees, such as the rent for mining and prospecting licences that are significantly lower. In addition, there are some areas where a new fee has been introduced that did not replace an existing fee. This is the case for:

- New native title "surcharge";
- New mineralisation report "surcharge";
- New fees for grant of a licence in relation to a tender;
- New fee for lodging an impact statement (s.41A MRSDA);
- New rent for an Exploration Licence (per 10 graticules);
- New rent for a Retention Licence (per 10 hectares);
- New fee to submit a mining work plan; and
- New fee to submit a variation mining work plan.

The table below provides a summary of the new schedule of fees proposed under Option 2 and a comparison with existing fees, where applicable.

Table 3.8: 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 units	(\$)	Fee units	
Application fee for Exploration Licence	\$138,508	74					

Fee description	Recoverable cost	No. / year	Proposed fee		Existing fee		% change
			(\$)	Fee units	(\$)	Fee units	
<500km ²			\$1,872	153.2	\$1,100	90 per 500km ²	70%
1000km ²			\$1,872	153.2	\$2,200	90 per 500km ²	-15%
2000km ²			\$1,872	153.2	\$4,399	90 per 500km ²	-57%
Application fee for Exploration Licence Renewal	\$58,848	60					
<500km ²			\$981	80.3	\$1,100	90 per 500km ²	-11%
1000km ²			\$981	80.3	\$2,200	90 per 500km ²	-55%
2000km ²			\$981	80.3	\$4,399	90 per 500km ²	-78%
New fee for grant of Exploration Licence (Tender)							
Application fee for Mining Licence	\$42,817	13					
<260ha			\$3,293	269.5	\$1,650	135 per 260 ha	100%
1000ha			\$3,293	269.5	\$6,599	135 per 260 ha	-50%
2000ha			\$3,293	269.5	\$13,198	135 per 260 ha	-75%
Application fee for Mining Licence Renewal	\$22,674	23					
<260ha			\$986	80.7	\$1,039	85 per 260 ha	-5%
1000ha			\$986	80.7	\$4,155	85 per 260 ha	-76%
2000ha			\$986	80.7	\$8,310	85 per 260 ha	-88%
New fee for grant of Mining Licence (Tender)							
New native title surcharge	\$45,067	48	\$938	76.8			New
New mineralisation report surcharge	\$3,225	4	\$807	66.0			New
Application fee for a Prospecting Licence ¹	N/A	-	\$643	52.6	\$489	40	32%
Application fee for a Retention Licence ²							
<260ha	N/A	-	\$1,872	153.2	\$1,650	135 per 260 ha	13%
1000ha			\$1,872	153.2	\$13,198	135 per 260 ha	-86%
2000ha			\$1,872	153.2	\$32,994	135 per 260 ha	-94%
Application fee for a Retention Licence Renewal ²	N/A	-					

Fee description	Recoverable cost	No. / year	Proposed fee		Existing fee		% change
			(\$)	Fee units	(\$)	Fee units	
<260ha			\$981	80.3	\$1,039	85 per 260 ha	-6%
1000ha			\$981	80.3	\$8,310	85 per 260 ha	-88%
2000ha			\$981	80.3	\$20,774	85 per 260 ha	-95%
New fee for grant of Retention Licence (Tender)							
Application fee for a Miner's Right	\$178	8	\$22	1.8	\$31 to \$86 (2 and 10 yr)	2.5 to 7 (2 and 10 yr)	-27% to -74%
Application fee for Tourist Fossicking Authority	\$164	2	\$82	6.7	\$367 to \$495	30 to 40.5	-78% to -83%
Application fee for variation of a licence	\$24,441	70	\$349	28.6	\$122	10	186%
Application fee for transfer of a licence	\$5,484	30	\$183	15.0	\$367	30	-50%
Fee for amalgamation of a licence	\$4,720	16	\$295	24.1	\$367	30	-20%
Fee for access to mining register	\$88	4	\$22	1.8	\$31	2.5	-28%
Fee for the provision of information or copies	\$88	4	\$22	1.8	\$8		175%
New fee for lodging an impact statement (s.41A MRSDA)	\$20,217	10	\$2,021	165.4			New
New rent for an Exploration Licence (per 10 graticules) ⁶	\$631,233	7208	\$87.98	7.2			New
New rent for a Retention Licence (per 10 hectares) ^{2,6}	N/A	-	\$29.33	2.4			New
Rent for a Mining Licence (per 10 hectares) ⁶	\$1,093,547	6088	\$179.63	15	\$370	30	-51%
Rent for a Prospecting Licence ¹	N/A	-					
2.5 ha			\$89	7.3	\$92	3 per ha	-3%
5 ha			\$89	7.3	\$183	3 per ha	-51%
New fee for initial application for a Work Plan							
Cat. 1 (SE)		10	\$1,575				New
Cat. 2 (SE)		20	\$3,936				New
Cat. 3 (SE)		10	\$4,724				New
Cat. 4 (SE)		8	\$9,448				New
Cat. 1 (EES) ³		N/A	N/A				New
Cat. 2 (EES) ⁴		-	\$15,746				New
Cat. 3 (EES) ⁴		-	\$15,746				New
Cat. 4 (EES)		3	\$31,492				New

Fee description	Recoverable cost	No. / year	Proposed fee		Existing fee		% change
			(\$)	Fee units	(\$)	Fee units	
Total	\$311,770	51					
<i>Average/existing fee</i> ⁵			\$6,113				N/A
New fee for application to vary a Work Plan							
Cat. 1 (No SE or EES)		5	\$487				New
Cat. 2 (No SE or EES)		21	\$1,217				New
Cat. 3 (No SE or EES)		17	\$1,460				New
Cat. 4 (No SE or EES)		3	\$2,920				New
Cat. 1 (SE)		10	\$1,460				New
Cat. 2 (SE)		20	\$3,894				New
Cat. 3 (SE)		4	\$4,867				New
Cat. 4 (SE)		16	\$9,735				New
Cat. 1 (EES) ³		N/A	N/A				New
Cat. 2 (EES) ⁴		-	\$14,602				New
Cat. 3 (EES) ⁴		-	\$14,602				New
Cat. 4 (EES) ⁴		-	\$29,204				New
Total	\$329,276	96					
<i>Average/existing fee</i> ⁵			\$3,430				N/A

Source: Deloitte analysis

Notes: (1) Prospecting Licences were only recently introduced, so past information on how many have been processed, and how long it has taken to process them and undertake on-going regulatory activities is not available. Advice from DSDBI is that the effort associated with these 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. (2) Retention Licences were only recently introduced, so information on how many have been processed, and how long it has taken to process them and undertake on-going regulatory activities, in the past is not available. Advice from DSDBI is that the effort associated with these 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 DSDBI is that rentals for Retention Licences should be \$2.93 per hectare. (3) Work plan applications for small mines 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 mine 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) The 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. (6) Rents on exploration, retention and mining licences have been established on a 10 graticule or 10 hectare basis for administrative simplicity and to comply with s.8(1) of the *Monetary Units Act 1994*.

4 Determining the preferred option

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

4.1 Assessment methodology

4.1.1 Method of assessment

Normally for a RIS, the preference is to use **Net Present Value (NPV)** analysis to assess the benefits and costs of the different options. NPV analysis is used to calculate the excess of benefits over costs. Where impacts occur over time, the value of costs and benefits is 'discounted' to ensure they are assessed in constant dollar terms. An option with a NPV with a value greater than zero (relative to the base) is deemed to meet the decision criteria and the option with the largest NPV is assessed as providing the greatest benefits.

While NPV analysis would be ideal for assessing the non-fee elements of Options 1 and 2 it was not possible because the existing regulations have been in place for some time and hence quantifying the impact of the base case is very difficult. Limited consultation was undertaken with the mining industry in an attempt to estimate the impact of changes to the regulations. During those consultations, stakeholders indicated that the base case (no regulation) was not considered to be realistic and they could not give consideration to what their actions would be in the absence of regulation. In addition, businesses consulted indicated that the impact of the non-fee changes under Option 2 were thought to be relatively minor. As such, there was insufficient data to support NPV analysis for the non-fee elements of the options.

For the fee elements of Options 1 and 2 NPV analysis is not appropriate.

Instead of NPV analysis to assess the costs and benefits of a component of the options it has been necessary to use multi-criteria analysis. Multi-criteria analysis requires judgement about how the proposed options will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with the proposals.

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 7.1.

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.

4.1.2 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 an option is consistent with the efficiency objective of cost recovery. Includes consideration of:
 - the degree of regulatory clarity the option promotes;
 - the cost of compliance for businesses and the cost of compliance and enforcement for government;
 - the level of cost recovery; and
 - 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 an 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 extent to which an option:
 - provides certainty for businesses in relation to how they meet their obligations under the MRSDA;
 - promotes the objectives of the MRSDA;
 - is consistent with other policy objectives – importantly those around increasing investment in Victoria’s resources; and
 - addresses compliance and implementation issues (e.g. simplicity, transactions costs, appropriate legal authority and levels of evasion etc).

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 1 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

Score	Description
+5	Somewhat better than the base case
+10	Much better than the base case

4.2 Assessment of the options

The assessment for each of the options is broken down into the fee element and the non-fee element to enable comparison between Option 1 and each part of Option 2 as well as an Option 2 that includes both sets of amendments.

4.2.1 Option 1 - status quo

Under this option the existing Minerals Regulations would be renewed in their current form.

Non-fee elements

Efficiency

The current version of the Minerals Regulations represents a considerably more efficient approach to the regulation of the mining industry than the base case. For example:

- The regulations would continue to prescribe the information to be included in licence applications and work plans, avoiding the need for applicants to make their own determination of these requirements and potentially need to re-submit applications in order to satisfy DSDBI.
- Royalties would continue to be specified in the Minerals Regulations, avoiding the need to specify royalty requirements individually with each holder of a mining licence.
- Advertising requirements would continue to be set out in the regulations. This would avoid uncertainty for licence holders and the community and would contribute to reducing information asymmetry between these parties, which can result in an increase in complaints and less efficient processes.

As outlined in Chapter 3, there would continue to be some inefficiencies and duplication in reporting processes for Option 1. Overall Option 1 is rated as +5 relative to the base case.

Equity

Option 1 would contribute to equity objectives in relation to mining activities. For example:

- Relative to the base case, Option 1 sets out necessary details for the calculation, payment and reporting of royalties across the industry, ensuring that the community receives an equitable distribution for the exploitation of its mineral resources and that licence holders pay consistent royalties across the state.
- In the case of licensing and work-plan decisions (as well as other aspects of the Minerals Regulations), Option 1 prescribes conditions that are binding for regulators as well as the industry. Relative to the base case, Option 1 enhances equity objectives by placing limits on the discretion of regulators that are consistent with the intention of the MRSDA.

- By prescribing requirements in relation to advertising, reporting and offences Option 1 also ensures that there is equity between the operation of the mining industry and the individuals and communities affected by its operation.

Overall, Option 1 is rated as +5 relative to the base case.

Effectiveness

Option 1 contributes to the effectiveness of the operation of the MRSDA, relative to a base case of no regulation. For example:

- The current regulations contribute to an effective administrative structure for making decisions concerning the allocation of mineral resources and the process for co-ordinating applications. In particular, the Minerals Regulations make provisions for the allocation of licences and approval of work plans. This includes information requirements, the format of information and reporting requirements for these things.
- Advertising requirements set out in the Minerals Regulations contribute to the MRSDA objectives that consultation mechanisms are effective and appropriate access to information is provided.
- The enforcement provisions in the Minerals Regulations contribute to the MRSDA objective that conditions in licences and approvals are enforced.

Overall, Option 1 is rated as +5 relative to the base case.

Fee element

Efficiency

The current version of the Minerals Regulations represents a considerably more efficient approach to collecting fees than the base case. The existing fee structure and levels of fees achieve 69 per cent cost recovery and provides regulatory certainty for businesses and government regarding fees. However, the structure and level of fees signals to industry regarding the resources used to allow the regulated activity to take place. Given the base case would involve ad-hoc fee collection, the existing fee structure and level of fees will be an improvement in terms of efficiency. On this basis, efficiency is scored at +7 under this option relative to the base case.

Equity

Under the base case the fees being charged to the minerals industry would be determined on an ad-hoc basis, where they are stipulated by the MRSDA, with taxpayers subsidising the remaining cost of regulating the industry. This is likely to result in a reduction in the level of cost recovery. The existing fee structure recovers 69 per cent of costs, with taxpayers subsidising the remaining 31 per cent.

The existing fee structure has several limitations, including, but not limited to, not charging fees for approval of work plans and the application of inappropriate metrics such as land area or length of term to calculate fees. In addition, the level of cost recovery by activity varies significantly, leading to an unbalanced outcome. Therefore some businesses are paying fees that reflect a reasonable level of cost recovery while others reflect a very low level of cost recovery. There are also some instances where fees are over-recovering, leading to cross subsidisation of regulated services. Chapter 3 provides a comprehensive summary of the limitations of the existing fee structure. On this basis, equity is scored at +5 under this option relative to the base case.

Effectiveness

Option 1 contributes to the effectiveness of fee collection under the MRSDA, relative to a base case of no regulation. Under the base case some fees would not be collected and while fees, such as the licence rents, that are defined in the MRSDA would be collected on an ad-hoc basis. Government would be required to negotiate with each licence holder to determine an appropriate rent. Option 1 increases the level of certainty and transparency around how rents, which are defined in the Act, are to be calculated and when they are to be paid. It also is simpler and less time consuming to implement for Government and enhances the ease of compliance for business. On this basis, effectiveness is scored at +5 under this option relative to the base case.

4.2.2 Option 2 – amended Minerals Regulations

Option 2 is similar to Option 1, but includes the changes to reporting requirements for mining and prospecting licences, changes to licence advertising requirements and changes to reporting and measurement requirements for lignite royalties outlined in Chapter 3.

Given that Option 2 retains the majority of the features of the current Minerals Regulations, this option is assessed relative to Option 1.

Non-fee elements

Efficiency

In terms of efficiency, it is expected that Option 2 will result in minor improvements relative to Option 1. These improvements arise from the removal of duplication in reporting processes and the removal of reporting requirements that are not currently used. Businesses would be required to provide additional information regarding mining expenditure which would result in businesses incurring a minor administrative cost. In consultation, industry indicated that the information would already be held by businesses and could be relatively easily provided.

This option is assessed as being a marginal improvement on Option 1. It is rated as +6 relative to the base case.

Equity

Option 2 is expected to make a minor improvement to equity considerations related to the Minerals Regulations. Changes to royalty arrangements will increase equity between the different lignite producers in the state and will ensure that the community gets and equitable return for the production of its resources. It is rated as +6 relative to the base case.

Effectiveness

Based on consultations with licence holders, it was unclear whether changes in advertising requirements would result in an increase or a decrease in advertising costs. It is likely that this will depend on the nature of the proposed licence area and proposed work program being advertised. It was generally accepted that prescribed requirements for newspaper advertising and additional internet advertising or another approved means would be a more effective way of reaching affected parties than the methods prescribed in the current regulations. It is rated as +6 relative to the base case.

Fee element

Efficiency

The proposed new fee structure and level of fees is designed to achieve 100 per cent cost recovery. This would send the correct signals to industry regarding the resources used to allow mining activities to take place. Given the base case would involve fees being charged to the minerals industry on an ad-hoc basis, with taxpayers subsidising the remaining cost of regulating the industry, 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

Under the base case the fees being charged to the minerals industry would be determined on an ad-hoc basis, where they are stipulated by the MRSDA, with taxpayers subsidising the remaining cost of regulating the industry. However, with 100 per cent cost recovery under the proposed new fee structure, this taxpayer subsidy would be zero. Moreover, the relativities in fees are set under the new fee structure so that cross-subsidies between different operators and mine sites are minimised. On this basis, equity is scored at +10 under this option relative to the base case.

Effectiveness

The improvement in effectiveness generated by Option 2 is the same as the improvement under Option 1. On this basis, effectiveness is scored at +5 under this option relative to the base case.

4.2.3 Summary

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

Table 4.2: Summary of MCA results

Criteria	Weighting	Base case	Option 1		Option 2	
			Non-fee	Fee	Non-fee	Fee
Efficiency	33.3%	0	+5	+7	+6	+10
Equity	33.3%	0	+5	+5	+6	+10
Effectiveness	33.3%	0	+5	+5	+6	+5
Weighted total	100%	0	+5	+5.6	+6	+8.3

Source: Deloitte analysis

Figure 4.1 summarises the resulting scores for Option 1 and the three sub-options possible under Option 2.

Figure 4.1: Comparison of Options

	Regulations with current administrative and process requirements	Regulations with administrative and process amendments
Regulations with current fees structure and level of cost recovery	10.6 Option 1	11.6 Option 2a
Regulations with new fee structure and level of cost recovery	13.3 Option 2b	14.3 Option 2c

As demonstrated in Figure 4.1, this assessment finds Option 2c, which includes both the administrative and process amendments and the fee amendments, is the preferred option by a slim margin. The marginal improvement resulting from Option 2c relative to Option 2b is a reflection of the relatively minor administrative and process amendments proposed under Option 2.

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 2c – the amended regulations. In summary, the proposed regulations would remake the Minerals Regulations with amendments to:

- the reporting processes required by the Act;
- licence advertising requirements;
- how royalties are calculated;
- fees to recover the cost of administering the Act and Regulations; and
- other minor technical amendments, including in relation to application requirements, infringements, penalties, the mining register and several other areas.

This conclusion is made on the basis that Option 2c:

- provides the greatest degree of regulatory certainty for businesses to meet their obligations under the MRSDA;
- improves efficiency of reporting requirements by reducing duplications in the annual reporting requirements for holders of mining and prospecting licences and simplifying requirements that are unnecessarily complex;
- provides government with the key data and information it needs to ensure that resources are being used at the lowest possible risk to the environment and community; and
- is designed to achieve 100% cost recovery.

A summary of the effect of the proposed regulations can be found in Appendix C.

Table 5.1, Table 5.2 and Table 5.3 illustrate the cumulative impact of the changes to the fee structure for exploration licences, retention licences and mining licences under the preferred option.

Table 5.1: Current and proposed fees and rents for exploration licences – comparison costs for various licence sizes and exploration types (\$2012-13)

Exploration licence size	Standard - 100 km ² , for metallic minerals	Large – 500 km ² , for metallic minerals	Very large – 2000 km ² , for non-metallic minerals
First 5 year term			
Proposed application fee (\$)	\$1,920	\$1,920	\$1,920

Current application fee (\$)	\$1,128	\$1,128	\$4,511
Additional application fee cost (\$)	\$792	\$792	-\$2,591
Proposed new rental cost – total over 5 years (\$)	\$4,510	\$22,550	\$90,200
Total additional cost over 5 years (\$)	\$5,302	\$23,446	\$87,609
Average annual additional cost (\$)	\$1,060	\$4,689	\$17,522
Second 5 year term			
Proposed renewal fee (\$)	\$1,006	\$1,006	\$1,006
Current renewal fee (\$)	\$1,128	\$1,128	\$4,511
Addition renewal fee cost (\$)	-\$122	-\$122	-\$3,505
Proposed new rental cost – total over 5 years (\$)	\$4,510	\$22,550	\$90,200
Total additional cost over 5 years (\$)	\$4,388	\$22,428	\$86,695
Average annual additional cost (\$)	\$926	\$4,534	\$17,339

Source: DSDBI

Notes: The following assumptions have been made: held for 5 year term and renewed for 5 year term, without relinquishments and there are no native title costs.

Table 5.2: Current and proposed fees and rents for retention licences - comparison costs for various licence sizes (\$2012-13)

Retention licence size	Standard – 260 ha	Large – 2000 ha	Very large – 5000 ha
Proposed application fee (\$)¹	\$2,747	\$2,747	\$2,747
Current application fee (\$)	\$1,692	\$13,536	\$33,840
Additional application fee cost (\$)	\$1,055	-\$10,789	-\$31,093
Proposed new rental cost – total over 5 years (\$)	\$3,900	\$30,000	\$75,000
Total additional cost over 5 years (\$)	\$4,955	\$19,211	\$43,907
Average annual additional cost (\$)	\$991	\$3,842	\$8,781

Source: DSDBI

Notes: The following assumptions have been made: the retention licence is held for a 5 year term and no native title costs are included. (1) Application fee includes Mineralisation report surcharge (\$827).

Table 5.3: Current and proposed fees and rents for mining licences - comparison costs for various licence sizes and work plan types (\$2012-13)

Mining licence	Standard – 260 ha	Large – 1000 ha	Very large – 2000 ha
Proposed application fee (\$)¹	\$4,204	\$4,204	\$4,204
Current application fee (\$)	\$1,692	\$6,768	\$13,536
Additional application fee cost (\$)	\$2,512	-\$2,564	-\$9,332
Proposed new rental cost – total over 10 years (\$)	\$47,890	\$184,200	\$368,400
Current rental – total over 10 years (\$)	\$97,660	\$375,900	\$751,800

Mining licence	Standard – 260 ha	Large – 1000 ha	Very large – 2000 ha
Additional rental – total over 10 years (\$)	-\$49,770	-\$191,700	-\$383,400
Initial work plan	\$9,687 (Cat 4, SE)	\$9,687 (Cat 4, SE)	\$32,291 (Cat 4, EES)
Work plan variation	\$2,995 (Cat 4, no SE or EES)	\$9,981 (Cat 4, SE)	\$9,981 (Cat 4, SE)
Total additional work plan cost (\$)	\$12,682	\$19,668	\$42,272
Total additional cost over 10 years (\$)	-\$34,576	-\$174,596	-\$350,460
Average annual additional cost (\$)	-\$3,457	-\$17,460	-\$35,046

Source: DSDBI

Notes: The following assumptions have been made: Mining licence held for 10 year term, there are no native title costs, including an initial work plan and one typical work plan variation. (1) Application fee includes Mineralisation report surcharge (\$827)

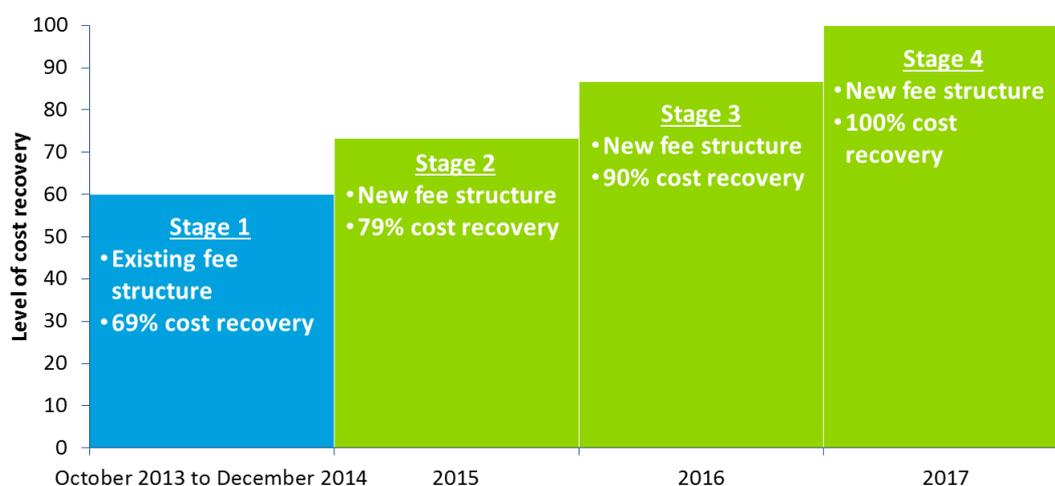
5.1.2 Transition process for industry (fees)

Given the magnitude of the increase in certain 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 69% (from commencement of the Regulations to 31 December 2014).
- Stage 2: The new fee structure will be introduced. All fees will be scaled to so that overall cost recovery is increased to 79% (from 1 January 2015 to 31 December 2015).
- Stage 3: Fees will be increased so that overall cost recovery is 90% (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 mining investment in the state.

The transition period will allow:

- Government time to educate businesses about the new fee arrangements
- 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. In particular, the lag prior to introducing the new fee structure is considered important to ensure transparency of regulatory requirements for business.

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 all fees except rents.

Table 5.4: Transition to the proposed new fee schedule

Description	Fee units			In 2011-12 prices		
	2015	2016	2017	2015	2016	2017
Application fee for Exploration Licence	121.5	137.4	153.2	\$1,485.20	\$1,678.65	\$1,872.10
Application fee for Exploration Licence Renewal	63.7	72.0	80.3	\$778.47	\$879.87	\$981.27
Fee for grant of Exploration Licence (Tender)	121.5	137.4	153.2	\$1,485.20	\$1,678.65	\$1,872.10
Application fee for Mining Licence	213.8	241.7	269.5	\$2,612.68	\$2,952.98	\$3,293.29

Description	Fee units			In 2011-12 prices		
	2015	2016	2017	2015	2016	2017
Application fee for Mining Licence Renewal	64.0	72.4	80.7	\$782.35	\$884.25	\$986.15
Fee for grant of Mining Licence (Tender)	213.8	241.7	269.5	\$2,612.68	\$2,952.98	\$3,293.29
Native title surcharge	60.9	68.9	76.8	\$744.54	\$841.52	\$938.50
Mineralisation report surcharge	52.4	59.2	66.0	\$639.84	\$723.18	\$806.52
Application fee for a Prospecting Licence	41.7	47.2	52.6	\$509.93	\$576.35	\$642.77
Application fee for a Retention Licence	121.5	137.4	153.2	\$1,485.20	\$1,678.65	\$1,872.10
Application fee for a Retention Licence Renewal	63.7	72.0	80.3	\$778.47	\$879.87	\$981.27
Fee for grant of Retention Licence (Tender)	121.5	137.4	153.2	\$1,485.20	\$1,678.65	\$1,872.10
Application fee for a Miner's Right	1.4	1.6	1.8	\$17.45	\$19.72	\$22.00
Application fee for Tourist Fossicking Authority	5.3	6.0	6.7	\$64.95	\$73.41	\$81.87
Application fee for variation of a licence	22.7	25.6	28.6	\$277.26	\$313.38	\$349.49
Application fee for transfer of a licence	11.9	13.5	15.0	\$145.42	\$164.36	\$183.30
Fee for amalgamation of a licence	19.1	21.6	24.1	\$233.64	\$264.07	\$294.50
Fee for access to mining register	1.4	1.6	1.8	\$17.45	\$19.72	\$22.00
Fee for the provision of information or copies	1.4	1.6	1.8	\$17.45	\$19.72	\$22.00
Fee for lodging an impact statement (s.41A MRSDA)	131.2	148.3	165.4	\$1,603.48	\$1,812.33	\$2,021.19
Fee for initial application for a Work Plan						
Cat. 1 (SE)	102.3	115.6	128.9	\$1,249.63	\$1,412.39	\$1,575.16
Cat. 2 (SE)	255.5	288.8	322.1	\$3,122.61	\$3,529.34	\$3,936.06
Cat. 3 (SE)	306.7	346.7	386.6	\$3,747.91	\$4,236.08	\$4,724.25
Cat. 4 (SE)	613.3	693.2	773.1	\$7,494.84	\$8,471.06	\$9,447.28
Cat. 1 (EES)	N/A	N/A	N/A	N/A	N/A	N/A
Cat. 2 (EES)	1022.2	1155.4	1288.5	\$12,491.41	\$14,118.44	\$15,745.47
Cat. 3 (EES)	1022.2	1155.4	1288.5	\$12,491.41	\$14,118.44	\$15,745.47
Cat. 4 (EES)	2044.5	2310.8	2577.1	\$24,983.78	\$28,237.97	\$31,492.16
Fee for application to vary a Work Plan						

Description	Fee units			In 2011-12 prices		
	2015	2016	2017	2015	2016	2017
	Cat. 1 (No SE or EES)	31.6	35.7	39.8	\$385.84	\$436.10
Cat. 2 (No SE or EES)	79.0	89.3	99.6	\$965.58	\$1,091.34	\$1,217.11
Cat. 3 (No SE or EES)	94.8	107.2	119.5	\$1,158.50	\$1,309.39	\$1,460.29
Cat. 4 (No SE or EES)	189.6	214.3	239.0	\$2,316.99	\$2,618.79	\$2,920.58
Cat. 1 (SE)	94.8	107.2	119.5	\$1,158.50	\$1,309.39	\$1,460.29
Cat. 2 (SE)	252.8	285.7	318.6	\$3,088.68	\$3,490.99	\$3,893.29
Cat. 3 (SE)	316.0	357.1	398.3	\$3,861.33	\$4,364.28	\$4,867.23
Cat. 4 (SE)	632.0	714.3	796.6	\$7,722.67	\$8,728.56	\$9,734.45
Cat. 1 (EES)	N/A	N/A	N/A	N/A	N/A	N/A
Cat. 2 (EES)	948.0	1071.4	1194.9	\$11,584.00	\$13,092.84	\$14,601.68
Cat. 3 (EES)	948.0	1071.4	1194.9	\$11,584.00	\$13,092.84	\$14,601.68
Cat. 4 (EES)	1896.0	2142.9	2389.9	\$23,168.97	\$26,186.77	\$29,204.58

Source: Deloitte analysis

Table 5.5 provides a summary of the fee units to be charged during the transition period following the introduction of the proposed new fee schedule for rents. Rents have been presented separately because they are payable each financial (not calendar) year. Therefore rents per financial year will be charged at a proportionate rate of units for each of the calendar years. For example the rent rate calculations for 2015-16 will be as follows:

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

Table 5.5: Transition to the proposed new fee schedule for rents

Description	Fee units per calendar year			Fee units per 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
	Rent for an Exploration Licence (per 10 graticules)	5.7	6.5	7.2	2.9	6.1	6.8	7.2	\$35.44	\$74.54	\$83.10
Rent for a Retention Licence (per 10 hectares)	1.9	2.2	2.4	1.0	2.0	2.3	2.4	\$12.22	\$24.44	\$28.11	\$29.33
Rent for a Mining Licence (per 10 hectares)	11.7	13.2	14.7	5.8	12.4	13.9	14.7	\$70.88	\$151.53	\$169.86	\$179.63

Description	Fee units per calendar year			Fee units per 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
Rent for a Prospecting Licence	5.8	6.5	7.3	2.9	6.2	6.9	7.3	\$35.44	\$75.76	\$84.32	\$89.21

Source: Deloitte analysis

5.1.3 Revenue impact

Overall, the annual revenues (including net present value) under the proposed fees are provided in Table 5.6. These revenue streams are calculated in real terms, so do not include the effects of nominal price inflation.

Table 5.6: Estimated annual revenue yield under preferred option (\$ million)

Year	Revenue yield (\$ 2011-12)
2013-14	\$1.72
2014-15	\$1.72
2015-16	\$1.85
2016-17	\$2.11
2017-18	\$2.37
Net present value (3.5% real discount rate)	\$8.76

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, DSDBI 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. The proposed Regulation will prescribe fees in "fee units" so that fees will automatically increase from year to year.

5.2 Enforcement considerations

5.2.1.1 DSDBI enforcement principles

MRSDA will provide for a range of offences, penalties and enforcement provisions to ensure that minerals industry operators meet their obligations. The Regulations would be enforced 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.dpi.vic.gov.au/earth-resources/about-earth-resources/legislation-and-regulation/compliance-enforcement/enforcement-procedure>)

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. Inspectors also have the powers to enter premises, search or seize documents and monitor compliance as part of enforcement actions. The proposed Regulations contain various penalties and infringement penalties. All penalties for offences under the proposed Regulations are 20 penalty units or less and all penalties for proposed infringement offences are 12 penalty units or less for individuals, and 60 penalty units or less for corporations. These infringement offences were developed in consultation with the Infringements System Oversight Unit within the Department of Justice (DOJ) against the Attorney-General's Guidelines to the *Infringements Act 2006*. The penalties for offences under the proposed Regulations were developed in consultation with the Criminal Policy Unit in the DOJ. These infringements and penalties will encourage compliance with the MRSDA and provide an outcome which is commensurate with the nature of the offence.

5.2.1.2 Incremental enforcement requirements

The proposed Regulations are not expected to generate a substantive flow-on effect with respect to the level of enforcement actions. Additional data reporting requirements in some areas are offset by reduction in reporting requirements in others. In addition, the transitional arrangements maximise industry preparedness and compliance.

5.3 Evaluation strategy

DSDBI recognises the importance of regularly reviewing regulation to ensure that it is relevant, efficient and effective. The proposed Regulations will be subject to an ongoing evaluation strategy, which will focus on the assessing the costs and benefits of the proposed Regulations. The evaluation strategy will consider baseline data and key performance indicators, such as reporting statistics, enforcement data and internal DSDBI statistics regarding activities taken according to the Regulations. Ongoing consultation with stakeholder will also take place, particularly in relation to changed reporting and advertising requirements.

DSDBI will collect baseline data and information on an ongoing basis. The baseline data and information will be informed by analysis of the following key information:

- Work plan and variations data;
- Activities and expenditure data and production data;
- Infringement and enforcement data, including complaints and incidents recorded;
- Data regarding the number of reportable events that are reported, including in relation to any changes in reporting of breaches of work plan or licence conditions requirements;
- Rehabilitation statistics, including bond levels and number, and rehabilitation information;
- Data regarding cost recovery and fees;
- Data regarding royalties;
- Data regarding objections to licences

- Data regarding any perceived efficiencies and other improvements for the administration of rehabilitation bonds.

DSDBI will use the following key performance indicators to measure the effect of the Regulations:

- Incidents, reports and complaints;
- Investigations;
- Enforcement actions (infringements, court etc).

DSDBI will continue to engage with stakeholders on a regular basis to discuss the effectiveness of the Regulations and any suggestions for change.

Periodic review of the data and key performance indicators may indicate changes in the overall trends for complaints and may provide indicative information about the effectiveness of the Regulations in reducing impacts of minerals industries. Regulations staff will also monitor the effectiveness of Regulations on an ongoing basis.

5.3.1 Timeframes

Generally, pursuant to the requirements of the *Subordinate Legislation Act 1994*, evaluation of the overall performance of regulations must take place within 10 years after the making of the regulations. However, as the proposed Minerals Regulations will only operate for five years, they will be subject to a final review sooner than would normally apply for regulations. Prior to their expiry, the Regulations will be reconsidered in light of relevant outcomes of the Government Response to the EDIC Inquiry and MRSDA Review Phase 2, including any consideration of whether the fee levels remain appropriate (e.g. whether any further efficiencies have been gained through changes to statutory or administrative processes). This review would be undertaken in conjunction with a review of the Extractives Regulations, with a view to amalgamating the regulations and streamlining requirements across extractives and minerals industries where possible (for example, in relation to work plan requirements).

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.

An assessment of the small business impacts must consider matters such as:

- variation in the compliance burden;
- whether any compliance flexibility options have been considered that will assist small businesses to meet the requirements of the proposed measure;
- the likely extent of compliance by small versus large business;
- the distribution of benefits arising from the proposed measure; and
- the relative impacts of penalties and fines for non-compliance.

For the preferred option there is no significant difference in the compliance burden between a small business and a large business. Smaller sized mining operations are typically less complex and hence will attract a lower compliance costs. For example, for work plan fees, a lesser fee applies to licences less than 5ha and prospecting licences.

In addition, during consultations it was identified that prescribing the use of a website to meet advertising requirements would be onerous for small operators who do not have a website. This requirement has not been applied in the case of prospecting licences (where there are more small operators) and the flexibility of advertising through 'another method approved by the Department head' has also been included.

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. A legislative amendment is considered to have an impact on competition if any of the following questions in the table below can be answered in the affirmative.

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 consultations and how the stakeholder input influenced the findings of the RIS.

7.1 Industry stakeholder consultation strategy

The proposed changes to Regulations analysed in this RIS were developed using information collected throughout consultations with industry stakeholders undertaken in previous operations, particularly through the engagement process of the review of the *Mineral Resources (Sustainable Development) Act 1990*. As detailed below, further consultation was then undertaken throughout this RIS process to ensure that the proposed changes were appropriate and met key industry and policy objectives.

The following targeted industry stakeholder consultation has been undertaken/is proposed by DSDBI 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 with minerals industry representatives to discuss details relating to Minerals Regulations, and identify any particular regulation changes that they would like to see progressed under this process.
December 2012	Interviews undertaken by RIS consultant with peak bodies and business representatives to gather feedback on the costs and benefits to be included in the RIS
May 2013	Meetings with minerals industry representatives to discuss proposed fees.
July/August 2013	Communication update to tenements holders and other industry representatives regarding the public release of proposed Regulations and RIS

August 2013	Various forms of communication engaged to discuss submissions received during public submission period (as appropriate)
October 2013	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

DSDBI has summarised the responses received by industry stakeholders, both through submissions and also through other forms of consultation, below.

7.2.1 General

Minimal non-fee changes – Industry in pre-consultation was generally supportive of making minimal changes to the non-fee aspects of the existing Minerals Regulations at this stage and remaking the Regulations for a shorter period of time (5 years rather than 10). Industry sees significant value in the Government’s response to the Economic Development and Infrastructure Committee report and acknowledges that it is better to restructure the existing regulations when amendments arising from the Government response to the EDIC Inquiry are introduced.

Amalgamation of Minerals and Extractives Regulations – representatives of the minerals industry did not oppose the original proposal to amalgamate the two sets of regulations. However, concern was expressed by smaller operators in relation to the potential for unintended consequences as a result of the inclusion of much larger and often urban based extractive industries in the same set of regulations. The minerals industry representatives indicated the matter would need to be monitored closely to ensure that there is no reduction in outcomes or detrimental impacts on the minerals industry (note, the proposal to amalgamate the two sets of Regulations was not taken forward due to some opposition from the extractives industry; it is intended that the matter will be revisited again when the Regulations are reviewed again within the next 2-3 years). Extractive Industry representatives were also open to the idea as long as the benefits to both industries was demonstrated.

7.2.2 Reporting arrangements

Industry was generally supportive of reportable breaches and non-compliances being risk-based, provided the threshold of risk is suitable and transparent.

Industry suggested that licence holders should be able to report activities and production by calendar year (note, this has been provided for in the proposed Regulations in relation to exploration and retention licences – as is currently the case under the existing Minerals Regulations; however this suggestion has not been provided for in relation to mining and prospecting licences, as it is more practical for production reporting to be aligned with financial year as this is when the royalty payment is required).

Industry was generally supportive of reducing duplication in environmental reporting requirements. Industry representatives suggested that there should not be duplicated reporting of reportable events and annual reporting (the proposed Regulations clarify that annual reporting of non-compliances excludes any matters already reported to the Department under reportable events requirements).

Industry suggested that licensees should be provided a longer period for submission of reports (currently one month insufficient). (The proposed Regulations provide for the Department Head to extend the period for submission of the reports, as is currently provided for under the Minerals Regulations).

Industry proposed that the complexity and detail of reporting should reflect the complexity of the activity and be set so that completing the forms should not be any significant challenge for operators. Small miners reported that they do not usually have trained professionals such as geologists or OH&S officers to fill out lengthy Departmental reporting requirements. It was also suggested by industry that more simplified reporting requirements for prospecting licences should be set out in the regulations.

7.2.3 Advertising

Apart from the cost burden to the individual operators, industry did not report any major issues with the current requirements. Industry had a preference for less advertising and was supportive of a central data access point for the public.

Industry acknowledged that electronic media is useful but is not necessarily used by all operators. Industry did not support mandated advertising on a website. Industry expressed concerns that the cost of maintaining a website will be onerous for those operators that do not already have a website. The proposed Regulations, therefore, provide that if a website is not available, the Department Head may approve an alternative method, or the applicant can provide the relevant information in the newspaper advertisement; prospecting licence applicants will not be required to advertise on a website.

7.2.4 Royalties

A consultation process commenced in 2011 with the three La Trobe Valley coal companies regarding development of an agreed and consistent methodology for measuring 'gigajoule units of lignite' produced for the purposes of calculating coal royalties. The methodology (as prescribed in the proposed Regulations) reflects the proposal put forward by the companies.

7.2.5 Fees

Industry representatives were of the view that if industry is to pay for regulation, then net benefits must be demonstrated. As such, industry was very supportive of an ongoing review of the relevance and efficiency of all regulations. Industry expected that the actual costing process should be done in a transparent manner and be based on realistic figures.

Industry indicated that fees should avoid cross-subsidisation issues, including for example, between small / large operators. Industry proposed that the risk associated with the operation should be taken into consideration, i.e. so that operators with a lower risk profile do not pay as high fees as operators considered high risk.⁹

7.2.6 Other matters

Certain amendments to exploration and mining licence applications relating to information required about the applicant's proposed work program were generally not supported by industry. Industry considered the requirements were too detailed and would not necessarily be achievable in the time necessary to make a licence application. Industry suggested that such requirements for details of work programs would be better placed in guidelines (as currently applies).

Requirements for further detail relating to the proposed program of work on exploration and mining licence applications have been included in the proposed Regulations. These additional requirements are not considered unreasonable expectations from companies seeking to secure access to the State's resources.

⁹ The proposed Regulations provide for work plan fees and work plan variation fees to be determined based on proximity to sensitive locations, which is a factor related to the level of risk of the operation.

Appendix A – Defining cost recoverable activities

This Appendix outlines the methodology for defining cost recoverable activities, the DSDBI 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 Minerals Regulations and the Extractives 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 minerals 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 Minerals Regulations, the Extractives 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 Energy and Earth Resources Group (EERG).

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?¹⁰

¹⁰ Department of Treasury and Finance, (2010), Op sit.

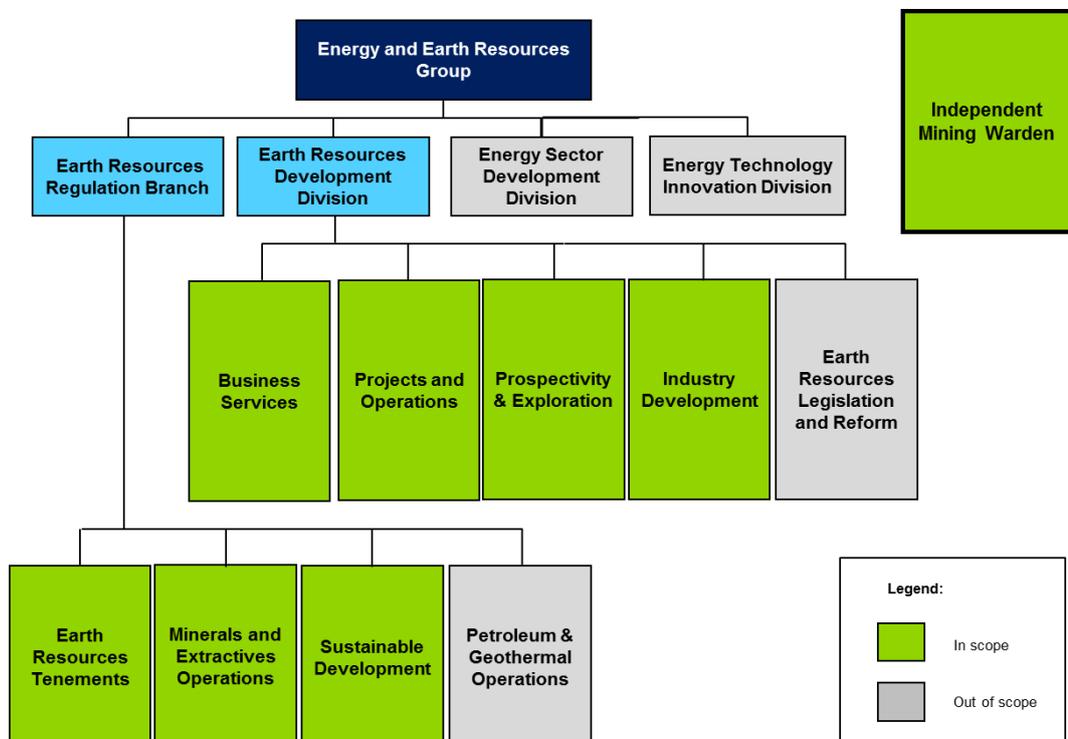
Business units in scope of the analysis

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 extractives 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 Regulatory Branch. However, the restructure has not had any material impact on the composition or work role of ERRB (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 Extractives Regulations. The long list is provided in Table A.2. A description of these functions is provided below.

Table A.2: 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
		Projects and Operations
	Industry-level facilitation	
	Coal resource planning and allocation (Clean Coal Victoria)	
	Prospectivity and Exploration	Data analysis and technical input
		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 licencing.

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
- 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 extractives 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 former 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. 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 to enhance industry's understanding of the process. These actions are generally focussed on mining and extractives 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 not part of DSDBI. 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 for mediation. 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.

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.

DSDBI has undertaken a benchmarking analysis comparing NSW fees against the proposed Victorian fees across three licence scenarios.

As illustrated in Table A.3 below, under the exploration licence scenario, a 5 year licence term without relinquishment and excluding any native title costs across 100 km², 500 km² and 2000 km² licence sizes, NSW fees were found to be between 51 per cent and 62 per cent higher than Victoria's proposed fees. For the retention licence/assessment lease scenario, a 5 year licence term excluding native title costs across 260 ha, 2000 ha and 5000 ha licence size, NSW fees were found to be between 74 per cent and 83 per cent higher than Victoria's proposed fees. Under the mining licence/lease scenario, a 10 year licence term including an initial work plan and one work plan variation excluding native title costs across 260 ha, 1000 ha and 2000 ha licence sizes, Victoria's proposed fees were found to be between 21 per cent and 23 per cent higher than NSW. Based on this analysis Victoria's costs base on balance would appear appropriate and efficient.¹¹

Table A.3: Comparison of fees with New South Wales

	Victoria (proposed)	New South Wales
Total annual average cost for a mining licence held for 10 years¹		
260 ha licence	\$6,327 ²	\$4,900 ³
1000 ha licence	\$20,328	\$16,000
2000 ha licence	\$40,533	\$31,000
Total annual average cost for a retention licence held for 5 years⁴		
260 ha licence	\$1,298 ⁵	\$5080 ⁶

¹¹ In addition to the fees set out in the regulations NSW, as of 1 July 2012, has introduced an Administrative Levy to meet increasing demand for compliance and enforcement as well as improved assessment, approvals and communication capabilities, funds would also be used for rehabilitation old abandoned sites. The NSW Administrative Levy has not been incorporated into the benchmarking analysis but when introduced it was expected that the levy would raise approximately \$13 million per annum.

	Victoria (proposed)	New South Wales
2000 ha licence	\$6,396	\$36,400
5000 ha licence	\$15,186	\$90,400
Total annual average cost for an exploration licence held for 5 years⁷		
100 km ² licence	\$1,254 ⁸	\$2,565 ⁹
500 km ² licence	\$4,774	\$12,027
2000 km ² licence	\$17,974	\$47,510

Source: DSDBI

Notes: (1) Mining licence/lease held for 10 year term. For Victoria - excluding any native title costs, includes an initial work plan and one work plan variation. (2) Vic application fee include application fee (\$3293) and Mineralisation report surcharge (\$807). Annual rent (\$180.00 per 10 hectares). Work plan assumptions: 260 ha = initial work plan (Cat 4, SE - \$9,448) and one work plan variation (Cat 4, no SE or EES - \$2,920) 1000 ha = initial work plan (Cat 4, SE - \$9,448) and one work plan variation (Cat 4, SE \$9,735) 2000 ha = initial work plan (Cat 4, EES - \$31,492) and one work plan variation (Cat 4, SE \$9,735) (3) NSW fees on mining licences is as follows: Application fee = \$10,000. Licence grant fee = \$85.00 per hectare or part of hectare.

Worked example – for 1000 ha licence for 5 years
= Application fee + (no. ha × \$85.00)
= \$10,000 + (1000 × \$85.00)
= \$95,000

Annual rent is set at \$6.50 per ha .

(4) Retention licence/assessment lease held for 5 year term, excluding any native title costs. (5) Vic application fee include application fee (\$1872) and Mineralisation report surcharge (\$807). Annual rent (\$29.30 per 10 hectares). (6) NSW fees on retention licences is as follows: Application fee = \$2,000. Per year of tenure for each hectare or part hectare = \$6.00.

Worked example – for 2000 ha licence for 5 years
= Application fee + ((no. years × no. ha) × \$6.00)
= \$2000 + ((5 × 2000) × \$6.00)
= \$62,000

Annual rent is set at \$12 per ha .

(7) Exploration licence held for 5 year term, without relinquishments, excluding any native title costs. (8) Vic fees include application fee (\$1872) annual rent (\$88.00 per 10 graticules). Note a graticule is equal to a km². (9) NSW fees on exploration licences is as follows: Application fee = \$1,000. Per year of tenure for each unit or part unit (where a unit equates to 3.42 km²) = \$12.50.

Worked example – for a 500 km² licence for 5 years = Application fee + ((no. years × no.units) × \$12.50)
= \$1000 + ((5 × (500 km² × 3.42)) × \$12.50)
= \$10,137

Annual rent on NSW is set at \$20 per km².

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?
- Is full cost recovery appropriate?

These questions are addressed below.

¹² Ibid.

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 Regulatory 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 Parliamentary Economic Development Committee (EDIC) report for the Inquiry into Greenfields Mineral Exploration and Project Development in Victoria. 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.

The Government response provides \$19.2 Million 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, Minerals Regulations and the Extractives 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 extractives 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.4.

A summary of the nature of the output/regulation for each business unit is provided in Table A.5. Note that functions are grouped together in the instance that they have similar characteristics.

Table A.4: 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.

Type of good	Description
Merit goods	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.
Government regulation	Examples include education, healthcare, exercise and the arts 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. Regulation can be justified on the basis that it address market failures such as negative externalities, inadequate information and market power.

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

Table A.5: 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 arising from the activities and whether full cost recovery would undermine other government objectives and/or industry innovation.¹⁷

¹⁴ Minister for Energy and Resources, Hon. Michael O'Brien MP, (2012), Letter to the Secretary of DSDBI, Mr Jeff Rosewarne, *Earth Resources Sector - Statement of Expectation*, 16 January 2012, DSDBI webpage, accessed 13 June 2012, <http://www.DSDBI.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>

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

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 extractives 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 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 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.

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/d/?q=filedepot_download/2/20

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 and direct allocation processes 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.

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

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

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 Minerals 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:

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

²⁰ Ibid.

²¹ Ibid.

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 extractives industries, the mining and extractives 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

Fees currently prescribed under the Minerals and Extractives 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.

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

²³ *Ibid.*, Section 124(8).

For policy delivery functions with outputs that are selective public goods, it may be feasible to charge a levy on the minerals and extractives 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 Extractives Regulations would need to be amended to introduce specific fees for rural conveyancing information requests and disputes handled by the Mining Warden.

In light of the cost recovery outcomes, consideration has been given to introducing new fees for assessment of coal (and non-coal) tenders. However, it is not proposed to make any amendments of this nature at this time. This is due to the potential policy implications of work currently underway and yet to be finalised being led by the recently established Coal Development Taskforce. The Taskforce was established to consider the most appropriate framework, approach and mechanism for taking Victoria's unallocated brown coal resource out to market at the appropriate time and encouraging commitment by industry to develop the resource.

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.6.

Table A.6: 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>

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.6, it is appropriate that costs associated with these functions be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives industries, rather they should be funded directly from DPI's budget. This approach is consistent with the DataVic Access Policy which states that "government data will be made available at no or minimal cost".²⁴

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.6, it is appropriate that costs associated with this function be recovered through fees charged to minerals and extractives 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.6, 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

²⁴ Victorian Government 2012, *DataVic Access Policy: Intent and Principles*, August 2012.

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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives 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.6, 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. It is anticipated that if companies had to pay for this service, they may be less likely to do so. This would result in greater costs for both businesses and government in addressing issues that could have been addressed more efficiently earlier in the project planning process. 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 extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives 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.6, 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to

minerals and extractives 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.6, 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.6, it is appropriate that costs associated with this function be recovered through fees charged to minerals and extractives 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.6, it is appropriate that costs associated with these functions not be recovered through fees charged to minerals and extractives industries.

Appendix B – Cost recovery and fee analysis

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

Note on the cost recovery and fee analysis

The cost recovery and fee analysis was conducted for both the Minerals Regulations and the Extractives 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 minerals 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 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 extractives 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
	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 extractives 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 regulatory 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.

8.1.3.2 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 \$3,692,068.

Table B.4: Estimating total and recovered costs per activity (2011-12)¹

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 ^{2,4}	\$0	Recoverable	\$0
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 ^{2,3}	\$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) ²	\$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
Extractives Work Authority – Applications	\$24,420	Recoverable	\$24,420
Extractives Work Authority Approved	\$4,541	Recoverable	\$4,541
Extractives Work Authority – variation	\$8,293	Recoverable	\$8,293
Extractives Work Authority – transfer	\$3,102	Recoverable	\$3,102
Rehabilitation bonds – transactions ⁵	\$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

Activity	Total cost	Whether or not recoverable	Recovered cost
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 Extractives Work Authority site (large)	\$422,151	Recoverable	\$422,151
Mining visits, audits, inspections, notices, investigations etc	\$202,451	Recoverable	\$202,451
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
Extractives 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: (1) These cost estimates include salary, operating and overhead costs, as well as capital costs associated with the RRAM administrative system. (2) For Retention Licence applications, Prospecting Licence applications and the Tourist Fossicking Authority (10 year term) none were processed in 2010-11 so no cost estimates are provided for these activities. (3) 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. Please note that the Prospecting Licence rent is expressed as a fixed fee which assumes five hectares (the maximum allowable site area) and that 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. (4) 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 advice from DPI is that rentals for Retention Licences should be \$29.30 per 10 hectares. (5) Rehabilitation bonds are not collected; rather a bank guarantee is sought, so there is no interest generated.

Minerals and extractives 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. The costs associated with these activities are outlined below.

Earth resource information compliance activities

Information provided by DPI suggests that this function involves approximately 40 per cent of a full time equivalent Victorian Public Servant (VPS) Grade 5 staff member per year. Estimates generated as part of the broader analysis suggest that the total salary, operating and overhead costs of a VPS Grade 5 are \$166,133.²⁵ Based on these figures, the total annual recoverable cost of this activity is \$66,453.

Assessment of coal allocation Tenders

DPI has carried out a detailed estimate of costs that would be incurred by the Government in the administration of a coal tender process, should the Government launch a tender for coal allocation in the future. A breakdown of these costs is provided in Table B.5. Based on this information, the total cost of this activity is \$950,000 per tender process.

Table B.5: Total cost associated with coal tender assessment process

Cost item	Amount
Legal	\$125,000
Data room management	\$40,000
Financial review advisors	\$300,000
Technical review advisors	\$200,000
Independent Assessment Panel	\$120,000
Contractors	\$80,000
Other costs including contingency	\$85,000
Total direct costs	\$950,000

Source: DPI.

8.1.3.3 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.

Information provided by DPI suggests that Mineralisation Reports are assessed by a VPS Grade 5 staff member. Each assessment takes one day and it is anticipated that approximately four of these assessments will be required every year in the future. Estimates generated as part of the broader analysis suggest that the total salary, operating and overhead costs of a VPS Grade 5 are \$166,133, or \$98.94 per productive hour.²⁶ Based on these figures, the total annual cost of this activity is \$3,166.

²⁵ This assumes that salary, operational and overhead costs in the Business Services unit are equivalent to those in the Earth Resources Tenements and Minerals and Extractives Operations units, including average salaries of existing staff – noting that ERRB capital costs are excluded from this calculation.

²⁶ See footnote above.

8.1.3.4 Assessment of pre-feasibility/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.

Information provided by DPI suggests that Pre-feasibility/Feasibility Studies are assessed by a VPS Grade 6 staff member. Each assessment takes 2 days and it is anticipated that approximately 10 of these assessments will be required every year in the future. Estimates generated as part of the broader analysis suggest that the total salary, operating and overhead costs of a VPS Grade 6 are \$210,262, or \$125.22 per productive hour.²⁷ Based on these figures, the total annual cost of this activity is \$20,036.

8.1.3.5 Involvement by the Mining Warden in disputes not involving the Government

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.
- 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.

The overall 2012-13 budget for the Mining Warden is \$400,000. However, as outlined in Appendix A, the Mining Warden has a number of functions some of which are not cost recoverable. Indeed, only those costs associated with the Mining Warden's involvement in disputes where the Government is not a party to the dispute can be regarded as recoverable.

Discussions with the Mining Warden's office suggest that dispute resolution activities – as opposed to others such as those associated with referrals for applications for waiver of an exploration licence holder's consent – represent the majority of work undertaken by the Mining Warden's office. In 2011-12 the Mining Warden assisted with a total of nine disputes – two of which the Government was a party to and seven of which involved purely private parties. On this basis, it can be assumed that approximately 77.8 per cent, or \$311,111, of the Mining Warden's budget is recoverable through fees charged to private parties in dispute.

²⁷ See footnote above.

Total

The figures outlined above suggest a total recoverable cost of activities undertaken by staff outside of ERRB amounting to \$400,766 per year.²⁸

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 Regulatory Branch and \$400,766 for activities undertaken by staff in other areas of the Energy and Earth Resources Group. As such, the total cost base relevant to the Minerals and Extractives Regulations is estimated at \$4,092,834. The total cost base relevant to the Minerals Regulations is estimated at \$2,491,840. The remainder of the total cost base has been allocated to the Extractives 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, including relevantly that the energy and resources group and Earth Resources Regulation Victoria has moved to DSDBI, and other parts of the former DPI have been merged with elements of the former Department of Sustainability and Environment to form the Department of Environment and Primary Industries. 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 DSDBI 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 Minerals and Extractives regulations.

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

Extent of existing minerals under-recovery

Revenue figures for the last five years are outlined in Table B.6. These figures represent all revenue received by DPI for fees charged under the Minerals Regulations over the period. Total revenue was \$1.7 million in 2010-11. This was slightly lower than revenue from the previous year, which was \$1.8 million. Overall, revenue has been reasonably stable over the period with a general trend upwards most likely accounting for annual indexation.

Table B.6: Revenue from minerals fees (2006-07 to 2010-11)

	2006-07	2007-08	2008-09	2009-10	2010-11
Mining fees	\$178,689	\$137,521	\$181,771	\$248,216	\$154,414
Exploration fees	\$166,000	\$170,000	\$141,000	\$136,000	\$157,000
Minerals rents*	\$1,207,438	\$1,216,956	\$1,297,475	\$1,409,619	\$1,407,145

²⁸ Note: this excludes the cost for the administration of a coal tender process, which will not result in a fee being imposed at this time.

Total	\$1,552,127	\$1,524,477	\$1,620,246	\$1,793,835	\$1,718,559
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Source: Internal DPI financial data

Notes: *In the context of the legislative framework for mineral resources, the term 'rent' refers to a periodic charge for the purposes of cost recovery, not an economic (or scarcity) rent.

Estimates of the level of current over- or under-recovery are provided in Table B.7. The total cost base is \$2.5 million and annual revenue is around \$1.7 million, suggesting that 69% of costs associated with regulating the minerals industry are recovered through fees charged to industry. This represents a shortfall of around \$0.8 million per annum. These results suggest that a shift to 100 per cent cost recovery would require a reasonable increase in fees.

Table B.7: Level of over- or under-recovery

	Cost base	Revenue (2010-11)	Under- or over-recovery	Per cent recovered
Fees	\$767,060	\$311,414	-\$456,289	41%
Periodic charges	\$1,724,780	\$1,407,145	-\$317,635	82%
Total	\$ 2,491,840	\$1,718,559	-\$776,281	69%

Source: Deloitte analysis

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

Allocating costs to fees

The cost items outlined Table B.4 (above) were allocated to different fees, as outlined in Table B.8. The last column lists the total cost to be recovered through each of the fees, where the grand total across all fees is equivalent to the cost base. 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 3.4.3 below.

Table B.8: 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.
Application fee for Exploration Licence	Exploration Licence Applications	100.0%	\$35,732	
	Exploration Licence - Objections	100.0%	\$100,258	
	Director/Admin M&E	3.4% ¹	\$2,519	
	Total			\$138,508
Application fee for Exploration Licence Renewal	Exploration Licence Renewal	100.0%	\$57,778	
	Director/Admin M&E	1.4% ¹	\$1,070	
	Total			\$58,848
Application fee for Mining Licence	Mining Licence Applications	100.0%	\$8,362	
	Mining Licence - Objections	100.0%	\$14,005	
	Assessment of Feasibility Studies	100.0%	\$20,036	

Fee description	Cost items recovered through fee	% cost item recovered	Amount of cost item	Total cost to be recovered through fee p.a.
	Director/Admin M&E	0.6% ¹	\$414	
	Total			\$42,817
Application fee for Mining Licence Renewal	Mining Licence Renewal	100.0%	\$22,261	
	Director/Admin M&E	0.6% ¹	\$412	
	Total			\$22,674
Native title surcharge	Exploration Licence - Native Title	100.0%	\$36,322	
	Mining Licence - Native Title	100.0%	\$7,926	
	Director/Admin M&E	1.1% ¹	\$820	
	Total			\$45,067
Mineralisation report surcharge	Assessment of Mineralisation Reports	100.0%	\$3,166	
	Director/Admin M&E	0.1% ¹	\$59	
	Total			\$3,225
Application fee for a Miner's Right	Miner's Right (<2 years)	100.0%	\$88	
	Miner's Right (>2 years)	100.0%	\$88	
	Director/Admin M&E	0.0% ¹	\$3	
	Total			\$178
Application fee for Tourist Fossicking Authority	Tourist Fossicking Authority (2 years)	100.0%	\$161	
	Tourist Fossicking Authority (10 years)	100.0%	\$0	
	Director/Admin M&E	0.0% ¹	\$3	
	Total			\$164
Application fee for variation of a licence	Variation of a licence	100.0%	\$23,997	
	Director/Admin M&E	0.6% ¹	\$445	
	Total			\$24,441
Application fee for transfer of a licence	Transfer of a licence	100.0%	\$5,384	
	Director/Admin M&E	0.1% ¹	\$100	
	Total			\$5,484
Fee for amalgamation of a licence	Amalgamation of a licence	100.0%	\$4,634	
	Director/Admin M&E	0.1% ¹	\$86	
	Total			\$4,720
Fee for access to mining register	Access to mining register	100.0%	\$88	
	Total			\$88
Fee for the provision of information or copies	Provision of information/copies etc	100.0%	\$88	
	Total			\$88
Fee for initial application for a Work Plan	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	

Fee description	Cost items recovered through fee	% cost item recovered	Amount of cost item	Total cost to be recovered through fee p.a.
	Total			\$311,770
Fee for application to vary a Work Plan	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
Fee for lodging an impact statement (s.41A MRSDA)	Impact Statements (s.41A MRSDA)	100.0%	\$19,849	
	Director/Admin M&E	0.5% ¹	\$368	
	Total			\$20,217
Rent for an Exploration Licence	Exploration Standard Work Plan - variation	100.0%	\$65,391	
	Exploration Area Work Plan – variation ⁵	100.0%	\$9,148	
	Exploration Standard Work Plan – new	100.0%	\$63,355	
	Exploration Area Work Plan - new	100.0%	\$9,148	
	Site visits, site audits, inspections (other), notices, investigations etc - Exploration	100.0%	\$35,717	
	Managing bond liabilities etc - Exploration	100.0%	\$16,792	
	Annual activity and expenditure return (Minerals)	59.8% ²	\$97,625	
	Rehabilitation bonds - transactions	1.0% ³	\$1,060	
	Procedures and information	33.3% ⁴	\$60,621	
	Receiving and following up complaints - Minerals	59.8% ²	\$67,091	
	Informing and providing guidance to industry on regulatory matters - Minerals	59.8% ²	\$85,538	
	Reporting and expenditure compliance	59.8% ²	\$60,760	
	Data reporting compliance	59.8% ²	\$39,726	
	Licence cancellations	59.8% ²	\$2,515	
	Licence surrenders	59.8% ²	\$5,265	
	Director/Admin M&E	15.5% ¹	\$11,481	
Total			\$631,233	
Rent for a Mining Licence	Site visits, site audits, inspections (other), notices, investigations etc – Mining	100.0%	\$202,451	
	Managing bond liabilities etc – Mining	100.0%	\$190,176	
	Annual activity and expenditure return (Minerals)	40.2% ²	\$65,681	
	Rehabilitation bonds - transactions	64.6% ³	\$68,091	

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 - Minerals	40.2% ²	\$45,138	
	Informing and providing guidance to industry on regulatory matters - Minerals	40.2% ²	\$57,549	
	Reporting and expenditure compliance	40.2% ²	\$40,878	
	Data reporting compliance	40.2% ²	\$26,727	
	Licence cancellations	40.2% ²	\$1,692	
	Licence surrenders	40.2% ²	\$3,542	
	Mining Warden	100.0%	\$311,111	
	Director/Admin M&E	26.8% ¹	\$19,889	
	Total			\$1,093,547

Source: Deloitte analysis

Notes: (1) The 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 Extractives Regulations and between fees within the two areas. (2) Relevant cost items (numerous) are allocated to mining and exploration rents on a proportionate basis according to the relative number of mining licences (220 as at July 2012) versus exploration licences (327 as at July 2012). (3) The rehabilitation bond (transactions) cost item is allocated across rents and 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). (4) The procedures and information cost item is allocated evenly across rents and annual fees (33% for mining, 33% for exploration and 33% for extractives). (5) DPI has advised that holders of exploration licences generally apply for a large number of variations to work plans. To ensure an efficient approach to fee collection these costs are included in the rent for an exploration licence, with the understanding that the number of variations is broadly consistent between licences.

Appendix C – Effect of the proposed regulations

Table C.1: Effect of the proposed regulations

Subject	Effect of regulation
Calculation of royalties for minerals / disposal of tailings from Crown land and production reporting	<p>The proposed Regulations will provide that:</p> <ul style="list-style-type: none"> - royalties for all minerals except gold and coal will be payable at the rate of 2.75% of the market value (note, there will be no royalty payable on gold and coal royalties will be calculated in accordance with the Act); - royalties for disposal of tailings will be payable at \$1.43 per cubic metre; - production reporting and royalty payments will be due within 28 days of 30 June each year (or as otherwise varied by the Minister); - if the payment is not received by the due date the payment is subject to interest at the rate prescribed under the Penalty Interest Rates Act 1983.
Timing and manner of measurement for calculation of a gigajoule unit of lignite produced	<p>The proposed Regulations will prescribe the timing and manner of measurement for calculation of a gigajoule of lignite produced for the purposes of coal royalty calculations, including:</p> <ul style="list-style-type: none"> - the Australian Standard AS 1038.5-1998 as the method for converting gross energy value to net energy value; - a formula for calculating the relevant density of the coal for the purposes of calculating the gigajoule units of lignite produced; - that volume measurements for the purpose of measuring the gigajoule units of lignite produced would be based on volumetric survey measurements; and - clarify that historic drill hole data would be accepted for the purposes of determining the net wet specific energy of the coal and the average in situ moisture content (the latter being required to input into the formula for determining the density of the relevant coal).
Meaning of Competent Person	<p>The proposed Regulations will align the definition of a ‘competent person’ under the Act (for the purposes of preparation of a mineralisation report for a mining or retention licence application) with the definition of a competent person under the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (JORC Code) (2012 Edition)</p>
Licence / tourist fossicking authority / miner’s right applications (and tender submissions)	<p>The proposed Regulations will provide the details of the information that must be included in an application for a mining, exploration, retention, or prospecting licence; a tourist fossicking authority; and a miner’s right. This will include details regarding the area, location, work program, expenditure, fit and proper person test, experience in mining / exploration where relevant etc. An application for a licence must be made in accordance with the procedure approved by the Department Head (this is to ensure that any restrictions placed on the location or timing of submitting an application can be enforced).</p> <p>An application for a tender will require the same information as for a standard licence application.</p>

Advertising of licence applications / successful tenderer	<p>The proposed Regulations will require that the applicant for a mining, exploration or retention licence must insert a notice in a State (Wednesday edition) and local newspaper - as currently applies - and publish additional information about the application (details of work program, community consultation and management of risks) on a website - or if a website is unavailable, in the newspaper notice or by another approved means. For another method to be approved, the Department Head must be satisfied that the method will ensure the information will be readily accessible to communities in the locality of the licence application area during the period for which objections may be made. The proposed Regulations will outline the procedure and relevant timeframes for seeking that approval (3 days for request / 3 days for approval decision).</p> <p>The newspaper notices would include basic details regarding the licence, application, including for example, contact details, licence location, area, a cross-reference to the Department's website for further general information, and a statement clarifying that the type of work that may be undertaken on the relevant licence type (subject to work being approved).</p> <p>Note, prospecting licence applicants would only be required to publish a notice in at least one local newspaper and there would be no requirement to also provide information on a website.</p> <p>As currently applies, copy of a newspaper notice must be provided to the Department Head, and in the case of mining and prospecting licence applicants, to the owner and occupier of the land affected.</p> <p>Advertising requirements for licence applications relating to coal on exempted land and for a successful tenderer will be amended for consistency; however publishing of information on a website will be mandatory (i.e. there will be no option to seek approval to make the information available by another means).</p>
Marking out and survey	<p>The proposed Regulations will provide that the holder of a mining, prospecting or retention licence must mark out land that is covered by the licence with posts that establish each corner of the land, a metal plate detailing information about the licence fixed to each corner post, and a trench cut in the direction of the adjacent posts (all to certain specified measurements). Survey and offset markers (as specified) may be used instead if it is not possible to comply with the marking out requirements. Also, a licence holder may apply for an exemption from marking out requirements.</p> <p>The holder of a mining or retention licence must also submit a survey plan. The Department Head may require a prospecting licence holder to submit a survey plan for the purposes of resolving a boundary dispute.</p>
Licence renewals	<p>The proposed Regulations will provide requirements for an application for a licence renewal, including the reasons for renewal and proposed work program.</p> <p>For a mining licence renewal, notice of the renewal must be provided to the owner and occupier of the land affected (the Regulations prescribe the content of the notice). Boundary markers must be updated with relevant information.</p>

Work plan	<p>The proposed Regulations will prescribe the information that must be included in a work plan for each licence type. This includes, for example, for a mining or prospecting licence, a site plan, community engagement plan and rehabilitation plan, and for a mining licence an environmental management plan. Work plans for retention and exploration licences require, among other things, information regarding measures for the control and mitigation of any environmental impacts, and a description of the proposed consultation arrangements. The requirements for an area work plan will also be set out in the proposed Regulations, including a site plan and information about native vegetation.</p> <p>The proposed Regulations also specify that the information that must be included in an application to vary a work plan is a description of all the proposed changes to the approved work plan.</p>
Reportable events	<p>The proposed Regulations will prescribe the circumstances that are considered 'reportable events' for the purposes of the Act, including for example, an explosion or major outbreak of fire, slope failure, an uncontrolled outburst of gas, or a breach of a licence/non-compliance with a work plan that results or is likely to result in a risk to public safety, the environment or infrastructure.</p>
Annual activity and expenditure returns / technical exploration report	<p>The proposed Regulations will prescribe the information that must be included in an annual activity and expenditure return for each licence type, and the technical exploration report (for all licences excluding prospecting licences). Reporting for mining and prospecting licences will be due within 28 days of 30 June each year, and for exploration and retention licences within 28 days of a chosen reporting date (either 30 June, 30 September, 31 December or 31 March). For example, a mining licence annual return must include information relating to expenditure on mining, exploration, rehabilitation and other activities, details of land disturbance and rehabilitation activities, and details of environmental management activities, including a report on non-compliances. An annual report for an exploration licence must include information including expenditure on office-based activities, air-borne exploration, remote sensing, drilling etc.</p>
Variation of a licence	<p>The proposed Regulations prescribe circumstances in which a licence may be varied, including in relation to incorporating the area of a licence into a surrounding licence, or where it is necessary to vary the licence to ensure public safety.</p>
Requirements for declared mines	<p>The proposed Regulations will prescribe those mines that are 'declared mines' (i.e. the three La Trobe Valley coal mines) and related mine stability bi-annual reporting requirements, information to be included in a work plan, and the mine stability levy (34 868 fee units as currently applies).</p>
Mining register	<p>The proposed Regulations will set out the information that the Department Head must include on the Mining Register in relation to instruments pertaining to statutory decisions and/or instruments under the Act (e.g. grant of a licence, refusal of an application, approval of a work plan, variation of a licence, compensation agreement etc.). Typically, this will include the licence number, name and address of the licensee/applicant, date of decision and other relevant information.</p>

Disclosure of interest requirements	The proposed Regulations will prescribe the information that must be disclosed to the Minister, and the timing of disclosure, by officers who hold certain pecuniary and other interests that might appear to raise a conflict with the officer's responsibilities as an officer engaged in the administration of the Act. The information includes for example, the position held by the officer and the nature of the interest.
Infringements	The proposed Regulations prescribe certain offences under the Act and Regulations as infringement offences and the related infringement penalty.
Penalties	Penalties will apply in relation to: <ul style="list-style-type: none"> - failure to submit production returns / annual expenditure and activity returns / technical exploration reports (20 penalty units) - failure to retain the books and records of production, etc. (10 penalty units); and - matters relating to marking out and survey requirements (10-20 penalty units depending on offence).
Fees	The proposed Regulations will prescribe various fees and charges, including for example, rent on all licence types, work plan approval and variation fees, and licence applications. The proposed Regulations will provide transitional arrangements for fees: all existing fees and fee units will apply from commencement of the Regulations until 31 December 2014. From 1 January 2015, a modified fee schedule will apply that includes certain new fees, and fee units will change at 1 January 2015, 1 January 2016 and 1 January 2017.

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