

Public Participation in Mining and Petroleum Activities - 12 April 2017



Protecting the Environment Using the Law

The information in this presentation is of a general nature only
and not a substitute for legal advice.

Public Participation in Mining and Petroleum Activities

- Today – access to information, public consultation & access to justice in the Mining & Petroleum Acts
- Mining & petroleum activities regulated by own legislation & partly by planning laws – no community engagement objects but various provisions re access to information & consultation
- Ministerial Council on Mineral & Petroleum Resources endorsed guide – Principles for Engagement with Communities & Stakeholders
- 2016 report on unconventional gas regulation with a focus on the SE
- Current review of mining regulation

Access to Information- General

- People need & deserve to know the activities that are being planned for the land/local areas, expected impacts & how these will be managed
- Benefits
 - Receiving information is a prerequisite to effective participation in the decision-making process.
 - Maximises transparency in the decision-making processes - achieves better outcomes by ensuring the accountability of decision-makers & improving confidence in the regulator.
 - Can lead to a “social licence to operate”
- If information is not made available this can breed fear, anxiety & distrust of both the tenement holders & the regulator

Access to Information - Mining Activities

Recommendations :

Following information should be available online:

- Entire history of tenements
- Applications
- Submissions regarding public consultation
- PEPRs (including management plans)
- Terms and conditions of authorisations
- Information on financial assurance & insurance
- Information relating to compliance & enforcement

Mining Register should be expanded to include all these documents (except submissions) & have links to SARIG & other registers eg LTO

Access to Information - Mining Activities

Recommendation:

DSD Hub of Knowledge to include:

- Applications
- Draft Programs & Plans
- Policy Documents
- Successful, model & real Land Access Agreements
- Court judgments
- Positive information including examples of co-existence, successful management of concerns, benefits & offsets, social benefits



Public Consultation-Mining Activities

- Genuine & meaningful consultation empowers local communities, utilises local knowledge & improves decision making by assisting decision makers to identify public interest concerns
- Public can only comment on mining lease applications & proposals (outline plans for the development & mine construction stages, production & the rehabilitation & mine closure stages) -14 days to do so
- Public cannot comment in particular on draft Programs for Environmental Protection & Rehabilitation (PEPRs) –key assessment documents which must be approved before mining can commence – detail environmental outcomes & criteria to monitor these outcomes

Recommend :

- longer consultation times eg 30 business days
- additional consultation on exploration licence applications, draft PEPRs, draft lease conditions , changes to process during lifetime of mine which leads to a new/greater impact & prior to surrender/expiry of tenement

Access to Information - Petroleum Activities

- Notification of proposals online & in local media – depending on level of impact
- Online publication of eg policies, applications, compliance reports
- Environmental Register – on line activity documentation
- Public Register – online licence details
- Commercial Register– Minister must consult with the licensee & information will only be released if considered to be in the public interest

Recommendation :

- As per Mining Act successful, model & real Land Access Agreements etc



Public Consultation – Petroleum Activities

- First stage-licensing –no consultation
- Second & third stages – assessment & approval
- Low/medium impact- Statement of Environmental Objectives based on Environmental Impact Report – only medium impact proposals must include info on community concerns & how it is proposed to address these
- High impact – as per assessment of major projects

Recommendation:

- Consultation on low impact proposals





Access to Justice – Mining & Petroleum Activities

- Most limited area of community engagement
- Only landowners have rights- dispute entry onto land (in case of petroleum court has no power to prevent entry), apply to court for a compliance order
- General community members can't have decisions reviewed in a court of law nor do they have enforcement rights – can only challenge whether a decision maker has followed the correct process (judicial review)

Recommendation:

- merit reviews & enforcement rights, ideally with open standing ie everyone can bring cases
- early access to mediation & no costs barriers