EARTH RESOURCES REGULATION

DRAFT Stakeholder Engagement Strategy 2016–2018

This accessible version Comments Form is designed to be used with the accessible version of our Draft Stakeholder Engagement Strategy 2016–2018.

Comments form

Earth Resources Regulation (ERR) is Victoria’s earth resources and mining regulator – its role includes licensing, risk management, compliance responsibilities and stakeholder engagement.

ERR has released its draft Stakeholder Engagement Strategy 2016-2018 for comment until 16 May 2016.

The draft strategy sets the overall direction of ERR’s stakeholder engagement approach over the next three years and outlines its strong desire to build and secure stakeholder confidence and trust in its work.

Please take this opportunity to provide feedback or comments and help shape a strategy that will improve stakeholder engagement and better communicate ERR’s role in the earth resources sector.

Following this consultation, and once feedback has been considered, the final strategy will be published on Energy and Earth Resources’ website.

For more information and how to submit visit: www.energyandresources.vic.gov.au/earth-resources-regulation

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Your comments

1. Our approach to stakeholder engagement (page 4 of strategy [accessible version])
   Do you think our approach will facilitate your engagement expectations adequately?

   FEEDBACK:

   CCAA notes that whilst engagement of Earth Resources Regulation (ERR) with non-industry stakeholders is important, the primary focus and reason for ERR’s existence should be as a risk based regulator.

   CCAA welcomes transparent, timely and meaningful engagement with ERR. ERR engagement should ensure ALL stakeholders are dealt with on balance, including industry.

   ERR interaction with other Government regulators such as EPA and WorkSafe and referral authorities such as Catchment Management Authorities and DELWP is important to achieve timely and efficient Work Plan and Work Authority approvals and efficient ongoing regulation of operations. CCAA looks forward to strong management support, involvement and meaningful engagement between ERR and other government agencies in the future.

   CCAA is concerned that the statement ‘Our approach is to look at all the risks of a project and balance the needs of the environment, community and the Victorian economy’ could be misinterpreted. It is not up to ERR to assess in detail the commercial viability or otherwise of an extractive industry proposal. The proponent carries the commercial risk of an operation, not the Government. The Government ensures there are safeguards in place should an operation fail commercially, such as an appropriate rehabilitation bond, but it is not up to ERR to approve or reject a development proposal based on their perception of commercial factors.
CCAA is concerned that the concept of ‘involving stakeholders in the regulation of our sector’ could imply to community stakeholder groups that they could dictate terms and conditions on the approval and ongoing operation of specific sites at any stage in the process. CCAA thinks it is important to manage expectations for all stakeholders and to outline how there are a range of legislated approval processes with opportunity for defined formal and informal engagement through these approvals. Similarly, any changes to existing work plan and planning permit conditions to operations would have to develop in a cooperative manner with all stakeholders and not imposed by ERR without proper engagement with industry.

2. **Our principles and commitment** (page 5 of strategy [accessible version])
   Do you think our principles and commitments meet your expectations as a stakeholder?

   **FEEDBACK:**
   
   CCAA supports the principles and commitments as the basis for an open, honest and accountable stakeholder engagement strategy.

   As always, implementation of principles can take some time to become standard operating practice. CCAA has chaired industry engagement forums such as the ERR Industry Reference Group and its predecessor, the Earth Resources Reform Steering Committee since 2013. These principles of transparent, timely and meaningful engagement have not always been demonstrated during the operation of these Committees and CCAA looks forward to strong management support, involvement and implementation of these principles in the Industry Reference Group in the future.

3. **Our engagement responsibility** (page 6 of strategy [accessible version])
   Do you think our stated responsibility will support your engagement adequately?

   **FEEDBACK:**
   
   CCAA supports the increasingly important role stakeholder engagement plays in the effective management of extractive industry operations. Currently this is regulated through the development of a Community Engagement Plan as part of the Work Plan process.

   CCAA is concerned what is meant by the last paragraph “we aim to work with industries so they have a greater role and increased responsibility in engaging with stakeholders relating to their operation’. No further regulation is required to provide a ‘one size fits all solution’ to this perceived issue. The current situation where a Community Engagement Plan is required, but the content of such a plan is not dictated, is appropriate. Each individual site is unique and therefore the stakeholder engagement approach should be reflective of this and risks associated specifically with that site. Further, the operations themselves are often in the best position to advise on what works in their specific context.

4. **Our engagement methodology** (page 6 of strategy [accessible version])
   Does our methodology reflect what you think are the necessary elements for supporting engagement adequately?

   **FEEDBACK:**
   
   CCAA supports the proposed engagement methodology and notes that it aligns with the international standard Public Participation Spectrum of the IAP2. The inclusion of the element of Continuous Improvement instead of Empowerment is welcomed and is a much more relevant and beneficial element in this situation. ERR will need to ensure that properly trained staff and sufficient resources are employed to ensure the successful delivery of the stakeholder engagement strategy.

   CCAA does not support ERR requiring the public disclosure of commercially sensitive material as part of the engagement process. ERR will need to liaise with industry to reach an agreed position on the type of site specific information that will be required to be publicly released.
5. **Our engagement objectives, priorities and actions** (pages 7-9 of strategy [accessible version])

   Please tell us what you think about our priorities:

   i. **Working with others:**

      CCAA looks forward to working with ERR to implement the actions according to the principles outlined.

      CCAA would like to know more about the proposed Earth Resources Regulators Forum role, purpose and function before making further comments on this issue.

      CCAA welcomes ERR being active in not just publishing material, but by taking the lead in public forums and being the authoritative source of earth resources information, explaining to all stakeholders how legislation and regulation works in a risk based system. This is particularly important in forums such as VCAT and in engaging with referral authorities and local councils.

      Under the point, *Encourage and listen to stakeholder feedback - Develop proactive communications and stakeholder engagement plans where stakeholders are affected by, or interested in, an earth resources project or issue*, ERR will need to carefully consider the development of their communications and stakeholder engagement plans with industry's existing, ERR approved Community Engagement Plan. Without appropriate alignment of these plans, there exists significant risk of misaligning messages and the potential to further confuse an existing situation.

   ii. **Realising risk-based regulation:**

      Realising risk based regulation and specifically, the successful implementation of risk based work plans in the RRAMS system is a priority issue for CCAA. CCAA has been working with ERR for the last 3 years to introduce this concept and we look forward to its successful implementation.

      CCAA has been encouraging ERR to engage with referral authorities, local government and industry to communicate to them the key changes in the approval process with the introduction of RRAMS, risk based work plans and statutory times frames. It is a key risk to the successful implementation of these important reforms that these stakeholders need to understand and embrace these reforms. Unfortunately to date, there has only been limited meaningful stakeholder engagement in this area. Meaningful engagement needs to be implemented as a matter of priority.

      One useful tool that could be developed to help communicate risk based regulation and the approval process for the extractive industry is to update the Extractive Industry VPP Practice Note. The current version is dated 2006 and a current version will help to provide a common understanding of the issues and process for all stakeholders. CCAA notes in a recent letter from Anthony Hurst to CCAA dated 9 May’16 that DEDJTR has initiated discussions with DELWP to provide guidance information to Councils on risk based work plans and the requirement for planning permits. CCAA recommends that this guidance material should cover the risk based regulation and approvals for the extractive industry as a whole and not be limited to one specific issue.

      Ongoing and meaningful engagement with industry and other stakeholders on these issues is required to deliver the best outcomes and to minimise the risk of unsuccessfully implementing these important reforms.
iii. Building resources and capability:

CCAA supports a well-resourced, technically competent risk based regulator that has the trust of industry and government. Skilled and resourced staff is the key to realising the full benefit from a modern regulatory framework. ERR will need to ensure that properly trained staff and sufficient resources are employed to ensure the successful delivery of the stakeholder engagement strategy.

ERR will also need to consider how to deal with vexatious stakeholders as part of this strategy. Unfortunately some stakeholders may object to issues without sufficient grounds, aiming only to cause annoyance, disruption and annoyance. CCAA suggests a ‘reasonable persons’ test be applied to determine whether a stakeholder is vexatious or not. ERR should develop more detailed guidelines on this matter.

6. Any other comments?

FEEDBACK:

CCAA considers the statement on page 3 ‘We are focused on safeguarding the health and wellbeing of local communities and ensuring that resource developments do not pose environmental and public health risks’ suggests that the resource industry places the community at risk by its very presence. This is obviously not true. This phrase should be reworded into a more balanced statement along the lines of ‘…and ensuring that resource developments operate appropriately and contribute to the economic development of the state’. Earth Resources Regulation within the Department of Economic Development, Jobs, Training & Resources should be an enabler of economic development and the creator of new jobs.

In the spirit of openness, accountability and transparency, the rolling 12 month plans that will detail how this strategy will be implemented should be publicly available. These plans should also include the requirement to publicly report quarterly against progress in achieving the plan’s key performance indicators.

Terms and Conditions

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) is collecting comments to inform the final development of Earth Resources Regulation’s Stakeholder Engagement Strategy 2016-2018. Any information collected will be used by Earth Resources Regulation for strategy evaluation and improvement purposes and may be used in Departmental reporting in an aggregated or de-identified format.

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Thank you for participating in this consultation

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