

## **DIT:Planning Reform Submissions**

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**From:** John Graham [REDACTED]  
**Sent:** Wednesday, 9 December 2020 7:17 PM  
**To:** DIT:Planning Reform Submissions  
**Subject:** Planning reform submission  
**Attachments:** phase 3 submission final draft 1a.odt

State Planning Commission  
Review team  
Revised Planning and Design Code Phase 3 Public Consultation  
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December 8 2020.

Consultation Document Formal Submission  
Feedback to **amend**  
Part 4 General Development Policies

To whom it may concern,

**Scrutiny of a Code Amendment:**

A request to adjust the Code and a form of development nominated in the Code is located in a sensitive zone and a Practice Direction 4 will give procedural matters. Therefore requirements for the Committee of Parliament, the ERDC (Environment Resource Development Committee) determines the outcome by Regulation or by Gazette.

**Scope:**

The feedback in this submission is to amend Part 4 General Development Policy.

The policy highlighted is The Practice Direction 4 General Development Policies -Resource Extraction: Assessment Provisions (AP) – Desired Outcome (DO)

Desired Outcome -Resource Extraction activities are developed in a manner that reduces human and environmental impacts.

The application of an overlay for a Resource Extraction Zone within the greater parent Hills Face Zone relates to Policy Outcome 4.2 assessment pathway. The applicable criteria in P.O. 4.2 is acceptable however exclusions can apply in particular;

Part 5- Statutory instruments, sub heading Division 2 – Planning Instruments, sub section (76) Minor or operational amendments part (4) reference to an EIS.

Land use definition requires the addition of Mining or Quarry operations which also triggers the activity of landfill especially in an area of an environmental protection zone- Hills Face Zone.

**Area Affected:**

A Resource Extraction Zone needs to cover the whole area of a pegged claim with

- 1.- No distinction between deposit area of activities
- 2.- Landfill and excavation including separation distance to meet requirements under the Mining Act 1971 including any applicable amendments.

The area affected in my submission relates to a parcel of land used currently used for primary production determined by rates payable to the local council yet a mineral claim will supersede the current land use.

The area affected is a parcel of land where a mineral claim has been lodged by the mining operator to the Mining Registrar.

But in some cases the land owner is not the registered proprietor as a mining operator and only leases the land to a mining company who does not hold existing use rights on land it desires to lease land it wishes to use for extractive purpose.

Why? Because the mining operator does not hold existing use rights outside a private mine in connection to adjacent land where it has pegged a claim.

### **Changes Sought:**

A Deemed to Satisfy- (DTS) requires to follow the assessment pathway of Impact Assessed Development or Restricted Development under Practice Direction 4  
Secondly under the old Development Act 1993 a mining lease was not assigned a category in a Council Development Plan and therefore defaulted to a Cat 3 notification.

Why?

### **Key Reason:**

While it is not nominated in development regulations it is classified under Restricted Development with no exemption under the Hills Face Zone regulations.

As viewed in several council Development Plan policies outside the focus of local issues for Hills Face Zone planning policy repetition in council wide policies need to be avoided and not be a cut- and- paste policy copied from a planning template.

A Designated Performance Feature (DPF) by assessment process requires to be tailored to address the specific locational requirements and not defeat Practice Direction 4.

Practice Direction 4 procedures provide guidance 114 – Amendment of EIS Part 7 Development Assessment Division 2 Planning Consent for Impact Assessed Development.

### **EIS under Practice Direction 4:**

Under the Mining Act it would be duty of care for the mining operator to control and measure complaints and register those complaints. To meet EPA requirements under AS2187, (blasting vibrations) and noise and dust emissions meet the EPA Act 1993 to be measured at residential receptor points of sensitivity.

No doubt that ground vibration movement decreases with distance from the origin of shock.

### **Performance Outcome:**

The aspect of zoning is a means of controlling the use of land.

The performance outcome desired is to the balance a community benefit for mining special provisions to co-habit with urban living.

The level of measurement (PPV readings to AS 2187 blasting vibration movements) will determine environmental impact to sensitive receivers under the EPA Act 1993.

**Desired Outcome:**

Resource Extraction (Deferred) Zone activities are developed in a manner that reduces human and environmental impacts.

The concept for this proposal will not defeat the purpose where the subject area delineated within the mineral claim and can be used for storage of overburden material and material rejected after crushing, screening or washing. Rejected material after use can be applied to re-contouring worked out quarry benches according to the approved PEPR plan.

Some aspects of this outcome falls under application under the PDI Act regarding where the filling of land exceeds 1 metre triggers SCAP assessment unless the Mining Act determines the matter of dealing with overburden and rejected waste from the processing plant. Conceding, rejected waste and overburden material can exceed 1metre under the interpretation of (Policy Outcome) P.O. 4.2.

A Resource Extraction (Deferred) Zone does not impede minimal output tonnage for the storage of finished product enabling the mining operator to meet market demand by its favourable and logistical position and providing a leading edge over competitors.

Royalties from the stockpiling of finished product is to be paid in accordance to the Mining Act both to the Crown and the landowner under a lease arrangement.

**Conclusion:**

If the mining operator desires to win the approval from the community it would be desirable to pursue quarry activities in a private mine as a priority where the mining company holds existing use rights over a mining title it encumbers under a current mining indenture agreement.

I point out that Practice Direction 4; Restricted and Assessed Development 2019) needs to take an assessment pathway. Under 109- Practice Direction to provide guidance:

1(b) in relation to impact assessed development (not being restricted development)

1 (b) (ii) any other requirements for assessing the level of impact of a development that is to be assessed as impact assessed development

1 (b) (iii) the information that must be provided by the proponent at various stages assessed under this Act. (P.D.I. Act 2016).

1 (c) any other matter prescribed by the regulations.

**Level of Assurance:**

The level of assurance needs to be given to the community that mining/ quarry activities will be a fit-for- purpose application undertaken in an environmentally, social and economic manner.

This would be a sensible approach to manage conflicts between industrial and residential activities. In my view on the interim that the Minister for Mines needs to grant a retention lease when an overlay is to be applied in a plan amendment to balance an agreement between mining and community. More detail is available at your request.

Regards

*Community Member-City of Marion*