



File Ref: DW: SJ: Q10-005

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25 June 2014

LOCKHART SHIRE COUNCIL SUBMISSION TO THE DRAFT WORK HEALTH AND SAFETY (MINES) REGULATION 2014 DISCUSSION PAPER

Introduction

Council has noted with interest the current Draft *Work Health and Safety Mines Regulation 2014 Discussion Paper* (the Discussion Paper) is open for submissions and takes the opportunity to make the following submission.

Council currently operates eleven (11) gravel pits within the Shire boundary. The quantity of material extracted and stockpiled in these gravel pits can vary from approximately 1,000m³ up to 10,000m³ per annum depending on the need for the material and the location of the gravel pit in relation to the projects for which the material is required. On average Council would create a stockpile in each gravel pit once in every two to three years and would then use the material gradually over that period as works are undertaken.

Council's operation in these gravel pits is limited to the loading and hauling of the material from the pit to the work site. Council does not operate in the gravel pit when ripping or crushing activities are being undertaken as these operations are contracted to properly appropriate licenced mine operators.

All of the material extracted and stockpiled is used for Council's own civil projects, including road reconstruction, gravel road re-sheeting and fill for road widening. None of the material is on-sold or used for any commercial or industrial purpose.

Discussion

Council makes the initial observation that the Discussion Paper defines mining for the purpose of the regulation as relating to the extraction of minerals.

2.4 *Scope and application*

The definitions of 'mine operator', 'mine', 'mining operations' and 'mineral' in the WHS (Mines) Act largely determine the scope and application of the regulation. A mine is a workplace where mining operations are carried out. Mining operations are mining activities carried out for the purpose of either the extraction or exploration for a mineral and includes activities carried out in connection with those mining activities at a site, or a site adjoining or in the vicinity of a site where mining activities are carried out.

Council is in full agreement with this definition and as such believes that Council's (and the majority of rural councils in NSW) operation of gravel pits does not fit

within the definition of 'mine operator', 'mine', 'mining operations and 'mineral' (Section 2.4).

Council believes the present interpretation of the definitions of 'mine operator', 'mine', 'mining operations' and 'mineral' in the WHS (Mines) Act is being applied incorrectly as Council's operations have no relationship with minerals or coal and are neither commercial or for industrial purposes, such as other major mining operations.

Essentially, under the present Regulation Council gravel pits are treated as a mine with the resultant requirements for Council's to have in place the same structure and procedures (appointment of Mine Operator (CI 6), Quarry Manager (Sch.8), WHS Management Plan, and reporting, etc.) as are required in major mining operations. This is despite the small scale and very occasional operation of these gravel pits.

The requirements detailed in this regulation are over and above what any Council should be expected to adhere to and are more suitable to large scale mining operations such as coal, mineral and major quarries for the production of civil products.

Council believes these additional requirements on Local Government could be considered as an issue of 'red tape' rather than real substance and could be a candidate for the current IPART investigation into the 'Governments Red Tape Reduction Program'.

Council does not wish to ignore or reduce its WHS requirements when working in its gravel pits. Council has always been and remains willing to ensure its responsibilities in these areas are fulfilled. Council has no intrinsic opposition to the inspection of the pits by Mines Safety Inspectors and is again willing to work with those inspectors to ensure all WHS issues are compliant.

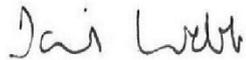
Council's issue is with the requirements for training and appointments and reporting that are onerous duplications of Council's own risk management procedures. This additional, unnecessary burden on Council places an extra drain on Council's limited human resources, results in lower productivity and is detrimental to Council's core activities.

In order to properly manage risks within these Council gravel pits, Council has in place an efficient WHS system which governs all of its activities, including the operations within the gravel pits. Council uses the same earthmoving machinery and staff to undertake the associated civil works outside the gravel pit and these are covered by appropriately detailed Safe Work Method Statements.

In each of Council's gravel pits, the material is won by a contractor with suitable machinery to win the material. When Council engages contractors to undertake the winning and crushing of the gravel, Council ensures the contractor has the appropriate quality and risk documentation as well as staff to undertake this work on behalf of Council.

Recommendation

Given the nature of Council gravel pit operations and the substantial difference between these operations and mining as defined by the WHS (Mines) Act Council recommends that a blanket exemption from the *Work Health and Safety (Mines) Regulation* be applied to councils operating gravel pits producing less than 5,000 tonnes per annum (averaged over five years) where the material is used for council road and other civil projects and is not used for commercial or industrial purposes. This would substantially reduce the excessive 'red tape' which is presently applied to councils under the WHS (Mines) Act.



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For the **GENERAL MANAGER**