Inquiry into Community Consultation Practices

Submitter: The Alliance for Responsible Mining Regulation (https://armrvic.com/)

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Introduction: The Alliance for Responsible Mining Regulation (ARMR) is a coalition of community groups and individuals committed to improving the regulation of mining in the State of Victoria, Australia.

ARMR Vision Statement

ARMR supports financially viable and responsible mining with adequate regulation that is enforced in a timely and effective manner, but will oppose mining proposals that threaten to destroy productive agricultural land, water resources, or to negatively impact environmental and human health or that fails to obtain social licence.

Until such time as it can be proven to ARMR's satisfaction that the responsible authorities are regulating existing mines effectively ARMR will strongly oppose any new mining proposals in Victoria.

Introduction

The communities ARMR represents feel disenfranchised by the mining law regime.

People who are going to be affected by exploration and mining are often not consulted about new projects and, even when invited to make submissions, find their genuine concerns, local knowledge, lived experience and evidence-based information are routinely dismissed.

Community Consultation Legislation

The Charter of Human Rights and Responsibilities Act 2006 (The Charter)

The Charter states: "**human rights are essential in a democratic and inclusive society** that respects the rule of law, human dignity, equality and freedom".

The Charter also requires, Section 1 (2):
(b) all statutory provisions, whenever enacted, are interpreted so far as is possible in a way that is compatible with human rights;
(c) imposing an obligation on all public authorities to act in a way that is compatible with human rights; and
(d) requiring statements of compatibility with human rights to be prepared in respect of all Bills introduced into Parliament and enabling the Scrutiny of Acts and Regulations Committee to report on such compatibility;

Section 18 taking part in public life

(1) Every person in Victoria has the right, and is to have the opportunity, without discrimination to participate in the conduct of public affairs, directly or through freely chosen representatives; and

(2)(b) to have access, on general terms of equality, to the Victorian public service and public office.

Note: Section 3 (a) enables Parliament, in exceptional circumstances, to override the application of the Charter to a statutory provision;

Unsurprisingly, lip service is often paid to these obligations. Moreover, The Charter makes no specific reference to an obligation to consult with the public.

Local Government Act 2020 (LGA)

The Local Government Act provides the framework for community engagement by local Councils, including the requirement to develop a community engagement policy and a public transparency policy. It is the only State law that specifically requires community consultation to be part of the decision-making process.

Unfortunately, the willingness of local government to meet the community engagement requirements of the Act can be too easily ignored or avoided.

Horsham Rural City Council (HRCC)

For example, in 2022, Horsham Rural City Council, without undertaking any investigations or community consultation, signed an MoU with WIM Resources to support the Avonbank Mineral Sands Mine. At the subsequent 2023 panel hearing the Council said*:*

"*Council is also mindful of the significant disruption that the Project will cause to many of its residents in and near the mining area. Council is keen to understand from the EES process about the impacts the community perceives the Project will have on them*."[1]

At no stage did Council consult with communities or affected landholders and businesses prior to signing the MoU.

Council Meeting 22 April 2024

"*PUBLIC QUESTION FROM FLETCHER MILLS OF Horsham Rural City KALKEE*

Question 1

Why did Council sign a memorandum of understanding with the Mine before consultation with potentially affected landowners and businesses?

Response from Kevin O'Brien, Director Communities & Place

The purpose of the Memorandum of Understanding is for parties to develop processes to support working cooperatively and collaboratively, to maximize mutually beneficial community and economic outcomes, and ensure best environmental practice from the development and operation of the Avonbank Mineral Sands Project within the Rural City of Horsham.

The MoU did not preclude Council making a submission on behalf of the community on the social, environmental and economic impact of the Project. Council has done so. ***It is through the EES process that Council has made commentary on the various impacts of the mine in its submission to the panel. This is where Council has represented community concerns***."[2]

[1]Appendix 9.4A to Council Minutes 22 May 2023 Submission to the Avonbank Mineral Sands Project Inquiry and Advisory Committee in regards to the Avonbank Mineral Sands Project Environment Effects Statement (EES)

[2] Ibid.

Key council staff involved in the EES process and the EES Inquiry Advisory Committee (IAC) went on a bus tour of the proposed mine environs and met local landowners impacted by the mine project on site. Given the EES IAC had instructed landowners not to speak with Committee members during the tour, the purpose of the bus tour was site inspection **not** "community consultation".

HRCC was in breach of its Community Engagement and Public Transparency policies which the Local Government mandates. The EES process was not a substitute for Council's legal obligations to undertake its own independent consultation.

In stark contrast to HRCC's approach was **East Gippsland Shire Council**'s response to the controversial **Fingerboards Mineral Sands Mine**. It listened to community opinion, engaged experts to provide independent advice on key areas of concern, and undertook its own investigations into the project's potential impacts. In support of the 900 plus EES objections to the proposal, the Council lodged its own objection and paid for consultant reports which greatly strengthened the community's position.

The Environment Effects Act 1988 (EE Act)

The EE Act, Section 10 Guidelines, Section 1 (ba) (2) requires: "*public consultation to be undertaken in relation to works to which this Act applies, including consultation in relation to the requirements for the scope and preparation of statements and supplementary statements*;"

The Act does not describe the nature of public consultation, only that it must be undertaken. Both the Avonbank (Wimmera) and Goschen (Mallee) were subject to EES assessments. In both cases, the farmers in close proximity to the proposed mines were significantly disadvantaged by the submission period coinciding with crop harvesting. In Avonbank's case, the submission period coincided with Christmas and 24/7 harvesting. The Minister for Planning, Sonja Kilkenny, denied requests for a blanket extension, which would have saved busy farmers from having to make separate requests, only granting extensions on a case-by-case basis.

The EES process is stacked against the community. Proponents have years to prepare their reports and the financial resources to hire consultants to write them. The community have roughly 40 days, including holidays and weekends, to analyse thousands of pages of the proponents' reports and write comprehensive submissions. The Fosterville Gold Mine EES only allowed community 30 days to make submissions.

For the average citizen, consultants are unaffordable. Minefree Glenaladale's participation in the Panel Hearing for the Fingerboards Mineral Sands Mine cost almost $100,000. The group raised a significant amount of money through extensive fundraising activities and donations, but participation would have been impossible without a small grant from a pilot program that helped fund legal representation, the willingness of highly qualified subject matter experts to provide their services at reduced rates, and the extraordinary generosity of a barrister who provided her services *pro bono*. Without that support, full participation in the hearing would have been impossible and the shortcomings of the mine proposal would not have been revealed.

Mallee farmers spent somewhere in the vicinity of $300,000 upwards out of their own pockets to hire consultants to support their objections to the Goschen mine.

Although the EES process is fundamental to the integrity of community consultation practices, it does not accord with the concept of Natural Justice or procedural fairness. Stuart Morris KC, acting for the proponent, Kalbar P/L (now Gippsland Critical Minerals P/L) in the Fingerboards EES, submitted to the

hearings that: "*it is well-established that the concept of onus of proof, except where specifically invoked by statute, has no role to play in administrative proceedings*".[3]

Such comment appears to validate proponents' wildly-exaggerated claims about a mine's benefits, including its employment potential, financial viability, etc.

If the proponent cannot be relied upon to present the truth, then the onus of proof inevitably falls on the public to prove data is being withheld or massaged. To do this, community members must bear the significant material and burdensome financial costs. With no rules of evidence or resources this is mission impossible. Whereas panels and decision-makers accept whatever the proponent's consultants present, seemingly without question, they routinely dismiss the community's solid research into the negative effects of mines on host communities, the impacts on local economies, and the lived experience, local knowledge, and anecdotal and scientific evidence, presented by those who live in, or know the subject area well, and have relevant academic qualifications and professional experience. Such inequity contravenes our Charter of Human Rights and Responsibilities, Sec 8 (3).

Community members find the EES process arduous and extremely stressful exacerbated by the tight deadlines. As it stands, if the proponent is legally allowed to mislead the inquiry (i.e. to lie), its reports cannot be relied on to provide true and correct evidence of a project's potentially significant environmental effects.[4] Not only does this frustrate the ability of the IAC, the Minister, local government, and statutory authorities to make informed rational decisions on the project's merits, but the fundamental right of affected persons and communities to procedural fairness is thwarted, even denied.

There is no legal obligation to tell the truth. Proponents are known to present evidence that does not accord with, or distorts, peer-reviewed scientific fact. And, in February 2025, a representative of WIM Resource was arrested and interviewed about fraudulently submitting documents to the Avonbank EES Panel.[5]

Without "rules of evidence", the EES assessment process is NOT rigorous, robust or transparent.

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Also absent from the EES process is a legal or even moral obligation to adopt fair processes. In the Fosterville Gold Mine EES, the IAC Chair, responding to the objection of White & Case's lawyer for the proponent, Agnico Gold, refused to allow Save the Campaspe's (STC)'s only consultant to complete his presentation. The Chair ignored STC's pleas for leniency due to the fact they had spent a large amount of their own money to hire the only consultant they could afford, the esteemed hydrogeologist, Dr. Phillip Macumber. The Chair also allowed the 80-year-old Dr. Macumber who is acknowledged as ***the*** expert on Victoria's groundwater hydrogeology, to be browbeaten by Agnico's lawyer in a manner that was utterly disrespectful of his professional expertise. It was agonising to witness. STC, ARMR and other community members attending the hearing were justifiably disgusted.

EES Terms of Reference – Public hearing

"The Inquiry must conduct its process in accordance with the following principles:
a. ***The public hearing will be conducted in an open, orderly and equitable manner, in accordance with the principles of natural justice****.*
b. The public hearing will be conducted with a minimum of formality and without legal representation being necessary for parties to be effective participants.

[3] Appendix A Stuart Morris KC legal opinion
[4] See Environment Protection and Biodiversity Conservations Regulations 2000, Sch 4, para (7(a) – (c)
[5] Appendix B ABC article

c. The Inquiry process and hearing itself is to be exploratory and constructive, ***with adversarial behaviour discouraged and with cross-examination / questioning to be regulated by the Inquiry in the context of these three principles.*****"**

Barriers to Public Participation (VAGO 2017)

"*Legal representatives with expertise in planning law and EES inquiry panels have a marked advantage over members of the public when presenting their case at hearings…*

The independence, powers and knowledge of the panel members—who are often experts and experienced in conducting planning panel hearings—is intended to ensure that proponents do not unduly or falsely influence the proceedings. Despite this, the imbalance between proponents represented by lawyers and self-representing community members supports perceptions of unfairness."[6]

ARMR's observations of EES public hearings is that the IAC Chair does not always comply with the Terms of Reference (ToR) rules. Proponents' barristers routinely adopt an adversarial position. It is extremely upsetting and unsettling to observe a community's expert witness struggle to put their case under a barrage of Yes/No interrogation. ARMR has yet to see a Chair remind these barristers of the need to comply with these rules. Consequently, intimidated by the proponent's cocksure legal team, laypersons feel compelled to hire legal representation.

This is not a level playing field. It does not meet the rules of Natural Justice. This is a serious flaw in the EES process which disproportionately affects the rights of community to participate in a process which is meant to be a fundamental aspect of a healthy democracy.

The Principal of Natural Justice or Procedural Fairness and Duty to Act Fairly

The principal of Natural Justice is absent from The Charter. It is, however, a common law doctrine.[7]

Justice Alan Robertson, Federal Court of Australia in "**Natural Justice or Procedural Fairness** states:

"[I]*t has been recognized that in the context of administrative decision-making it is more appropriate to speak of a duty to act fairly or to accord procedural fairness…*

In this respect the expression "procedural fairness" more aptly conveys the notion of a ***flexible obligation*** *to adopt fair procedures which are appropriate and adapted to the circumstances of the particular case.* ***The statutory power must be exercised fairly, i.e., in accordance with procedures that are fair to the individual considered in the light of the statutory requirements****, the interests of the individual and the interests and purposes, whether public or private, which the statute seeks to advance or protect or permits to be taken into account as legitimate considerations: cf. Salemi [No.2], per Jacobs J…"*

It is quite clear that the Fosterville Gold Mine EES Chair did not comply with this convention. She did not act fairly. She did not comply with the Terms of Reference. Her first impulse to allow Dr. Macumber extra time was swiftly reversed after the proponent's barrister objected. Community attending

[6] VAGO *Effectiveness of the Environmental Effects Statement Process*, March 2017, 4.3.3 Barriers to public participation https://www.audit.vic.gov.au/report/effectiveness-environmental-effects-statement-process

[7] Appendix C Justice Alan Robertson, *Natural Justice or Procedural Fairness*, Judges and Academy 4 September 2015

perceived this reversal not as *detached"*, but biased; possibly motivated by the intimidation she herself felt.

WIM Resource Avonbank EES

Some farmers whose land was within the designated mine site were unaware that an EES had been called. Only after the process ended did they learn that mining would occur on their farms and they would have to vacate their homes for 28 years—considered only "*temporary*" by WIM Resource, if the mine proceeded.

A September 2023 statement by WIM Resource said it was unfortunate the EES was exhibited around the sowing season but this timing was not of their choosing.[8]

"*The EES was provided to the Victorian government well before the sowing season, and it had been WIM's expectation that the government would have authorised exhibition of the EES much earlier than it did*," the statement said.

"Lawyers representing affected landholders have lodged a complaint with the Independent Broad-based Anti-Corruption Commission (IBAC) over the handling of the public submissions process."[9]

Earth Resources Regulator (ERR)

There does not seem to be a legal obligation for government agencies and statutory authorities to undertake community consultation, although, ERR say they are "committed to an ongoing conversation about minerals exploration and mining". However, mine licensees ***are*** required by law to consult with the community.

ERR lists applications on its website. It must also publicly advertise them and invite objections. This usually amounts to a very small notice in a small local newspaper, which is easily missed. Consequently, the public must be constantly alert to such applications, which is not fair. At the least, mining companies should be required to use all means to inform owners and residents, by post or by letterbox drop, of the intention to mine or explore in an area.

Unprecedented Legislative Changes

Two unprecedented legislative changes have recently occurred: the Mining Amendment Bill 2023 and Planning Scheme Amendment to the Victoria Planning Provisions VC242. Although the main objectives for the implementation of these "reforms" is "increasing transparency around operations and regulatory requirements", the result is community rights to be consulted about mining applications have been substantially weakened.

Mining Amendment Bill 2023

Until 1 July 2027, the Mineral Resources (Sustainable Development) Act 1990 (MRSDA 1990) remains the principal law regulating mining in Victoria at which time it will become the **Mineral Resources and Extractive Industries Act 1990.**

[8] Gillian Aeria, ABC Wimmera, Wimmera farmers fear losing homes, livelihoods if mineral sands mine near Horsham proceeds, 22 September 2023
https://www.abc.net.au/news/2023-09-22/farmers-homes-land-access-threatened-by-mineral-sands-mining/102885874

[9] Gillian Aeria, **ABC News**, *WIM Resource accused of misleading public to garner support for Avonbank mine*, Friday 22 December 2023

The deletion of "sustainable development" from the title of the **Mineral Resources and Extractive Industries Act 1990** is a fundamental change even if the Principles of Sustainable Development remain. It signals that the purpose of the MRSDA Act 1990 is no longer to encourage mining that can be done in an environmentally and socially sustainable manner to one which seems to facilitate mining at any cost.

The Fosterville Gold Mine IAC also expressed concern about the operation of the Mining and Extraction Act after 1 July 2027. Its EES assessment includes the following:

"*As acknowledged by both ERR and the Proponent,* ***it is not clear what the process will be to implement the mitigation measures after July 2027****. ERR and the Proponent said it is likely they will be used as a framework to guide the Proponent on how it could meet its new duties under the Amended MRSD Act.*

While these issues are out of the hands of the Proponent, they are significant issues for several reasons:
• the EES process is designed to inform other statutory decisions
• usually the statutory decision makers are required to consider the outcomes of the Minister's Assessment
• where there is no statutory decision to be made, it is not clear how the findings from an EES process can inform outcomes on the ground
• in this case there will only be a statutory decision for some components of the Project after July 2027 (including rehabilitation and approvals under other legislation, such as licences under the EP Act).

This apparent gap is likely to cause further community concern about the regulatory rigour, independence and transparency around the Project. This gap is likely to be particularly concerning for more critical aspects of the Project including:
• design of TSF6 and CIL hardstands
• management of off-site impacts, including dust, noise, contaminants.

The Inquiry cannot be confident that 'appropriate conditions can lawfully be imposed' after July 2027 *(that is one of the specific requirements of the ToR). However, this is a matter outside the scope of this Inquiry and the control of the Proponent.*

This Inquiry considers the broader regulatory consequences of the MRSD Act reforms have not been considered in the context of the EE Act. The Inquiry suggests that an urgent review of the relationship between EES processes and the Amended MRSD Act occur before any new regulations are made. Amendments may be required to the EE Act to cover circumstances where there is no statutory decision to be informed by a Minister's assessment."[10]

ARMR endorses this assessment. The Ministerial assessment did not comment on the IAC's concerns.

Mining Amendment Bill Community Consultation

Regarding community consultation, Minister D'Ambrosio said:

"The *Government acknowledges stakeholders' and partners' considerable interest in understanding the new regulatory framework. There will be a comprehensive implementation process, with early,*

[10] Planning Panels Victoria, Fosterville Gold Mine Sustained Operations Project, 24 February 2025, p232-233

ongoing and meaningful engagement with industry and other stakeholders on the regulations and guidance material that sits below these amendments.[11]

There certainly was "*meaningful engagement"* with Industry, as David Southwick MP confirmed during the second reading when he thanked *"the contributions from the stakeholders – the Minerals Council of Australia; the CCAA; and the CMPA."*[12]

No community consultation occurred prior to the passage of the Amendment Bill. No opportunities for contributions from environmental and community stakeholders were invited. The community consultation that has occurred since the Bill was passed has been far from "comprehensive" or "meaningful".

DEECA Mine Reforms Consultation

Initially, there was no community stakeholder reference group. The Community, Environmental Group and Landholder Stakeholder Reference Group was only formed after complaints from stakeholders.

"After the first meetings of the Industry & Community Association and State Government & Local Councils Stakeholder Reference Groups, it has been decided by Resources Victoria to create a standalone Community, Environmental Group and Landholder Stakeholder Reference Group with the first meeting of this group to occur in July this year."[13]

Notwithstanding DEECA's response to complaints, ARMR's perception is that the Government has been reluctant to consult with community. This may be due to the powerful influence of the Minerals Council Australia, as evidenced by David Southwick, MP.

The Community, Environmental Group and Landholder Stakeholder Reference Group met online with DEECA in April, July, and August 2024. Linda Bibby, Director Strategy, Resources Victoria Department of Energy, Environment and Climate Action, sent an email, dated 18 December 2024, which stated:

"As per the Terms of Reference for the Stakeholder Reference Group, Resources Victoria will send you an interim update early in 2025. We will hold another session to seek further feedback on the policy work in the first half of the year."

DEECA consultation largely consisted of a PowerPoint information session and a list of questions to answer. ARMR and other stakeholders submitted further questions, which were answered in the 18 December 2024 email communique. However, there was no response to further questions and feedback although community members were invited to submit them. The February meeting did not occur and there were no further communications from Resources Victoria Department of Energy or MRSDA Reforms until 20 May 2025 following several unanswered emails from ARMR.

An online meeting was held on 27 May 2025 with two representatives from the Community and Environment SRG. They have been advised that consultation will resume but *only* with three group representatives. Excluding other community stakeholders from future discussions only limits the broad range of inputs that effective consultation practices require.

[11] Hansard, 23 June 2023, Mineral Resources (Sustainable Development) Amendment Bill 2023
[12] Ibid.
[13] Mineral Resources (Sustainable Development) Amendment Act 2023, Information Session 30 April 2024 – Q&A

The perception is that only ARMR's persistence led to the resumption of MRSDA Reforms consultation. Consequently, to ensure public confidence in the integrity of public policy, community consultation practices need to be formalised in state legislation as they are in the Local Government Act.

Victoria Planning Provisions Planning Scheme Amendment VC242, September 2023

VC242 amends the Victoria Planning Provisions (VPP) and all Victorian planning schemes by introducing two new Particular Provisions to facilitate significant residential development and other projects, which the Minister for Planning deems to be economically significant. "Other" projects primarily refers to quarrying and mining.

VC242 was introduced without any public consultation.

The inclusion of mining in VC242, which focusses on expediting housing development, seems a deliberate intention to fast-track mining projects by eliminating community consultation and appeal rights.

Importantly, under clause 72.01, the Minister for Planning becomes the Responsible Authority for developments subject to clauses 52.22 and 52.23:

Part 3—Amendment of planning schemes Division 1—Exhibition and notice of amendment

Effects of Exemption on Third Parties

"*Applications made under clause 52.23 are subject to notice requirements including notice to a municipal council and exempt from third party review [at 7]…third parties, e.g. affected individuals and communities will not be notified of the proposed amendment or be provided or be provided with an opportunity to make submissions on the amendment or be heard by a panel* [at 17]."[14]

VC242 exempts the Minister from the requirements of the Planning and Environment Act 1987, sections 17, 18 and 19, negating the statutory role of local councils to administer their planning schemes as Responsible Authorities. In so doing, the obligation of Councils under the Local Government Act to ensure effective community consultation in an open and accountable manner and appeal rights to VCAT are also overridden.

In some cases, VC242 also gives Invest Victoria the sole right to approve a project, based purely on the hype or marketing of a mining company, including a ridiculously low value of $30 million. In such cases, communities and local councils have no rights to comment. They are shut out of a decision-making process which denies them the opportunity to perhaps contribute some substance or expert knowledge to what is proposed. Consequently, rural and regional communities will be exposed to significant and unwarranted financial, social and economic risks, and apparently, will have no recourse other than the Supreme Court. VC242's abolition of the rights to object and appeal a proposal, no matter how financially unviable or environmentally damaging, is a blatant breach of Natural Justice.

Where the Minister does not call-in projects or InvestVic approves projects, VC242 transfers approvals from Resources Victoria to local councils. How these three options interact is unclear.

The MAV submission on the impacts of VC242 said:

[14] Reasons for Decision to Exercise Power of Intervention under section 20(4) of the P*lanning and Environment Act 1987 Victoria Planning Provisions* and all planning schemes in Victoria Amendment VC242

"*It is disappointing that, since the publication of the Operation Sandon report, the Victorian Government has introduced new types of planning approval pathways that move decisions away from predictable, accountable and transparent processes. These include new particular provisions at clauses 53.22 ('significant economic development') and 53.23 ('significant residential development with affordable housing').* ***While they may have important policy objectives, these pathways enable extraordinary discretion while centralising decision-making within the Planning Minister's office and Department and away from public scrutiny.*** *These are practices warned against in the Operation Sandon report and which may have increased integrity risks in the planning system…*

*The Operation Sandon Special Report is a serious matter and deserves a serious response. There are strong and mixed views from councils about some of its recommendations****. The MAV has raised significant concerns about the consequences of recommendations not being implemented carefully.*** *There is however widespread support across local government for the report's purpose: to improve the integrity, accountability and transparency of planning decisions in relation to all decision-makers.*

The MAV submits that any program to review and rewrite the Act must aim to create a planning system that provides integrity, accountability and transparency*."*[15]

It is obvious that Victorians' democratic rights to hold government to account and to ensure that decision-making processes uphold the principles of integrity, transparency, accountability and procedural fairness are being drastically weakened by these legislative changes.

Social Licence

Authentic community consultation is an essential path to social licence. In practice, social licence is disregarded in EES assessments and planning permits' approvals. Moreover, its application can vary depending on political whim.

During the second reading of the MRSDA Amendment Bill, Lily D'Ambrosio, Minister for Climate Action, Energy and Resources, and the State Electricity Commission said that ***"social licence for the resources sector is critical"***, explaining that:

"Victoria is a relatively small, densely populated state with a diverse economy. Mixed high-value land uses are often in close proximity to each other, such as residential areas, agriculture, tourism and recreation, environmental protection and earth resources activities. ***This means that community confidence and social licence is particularly important for Victorian resources operations****."*

Yet, the Minister for Planning approved both Avonbank and Goschen mineral sands mines dismissing strong objections from the farming communities. Furthermore, she has allowed the renewal of the Fingerboards Mineral Sands Retention Licences disregarding the more than 900 objections to the EES and the assessments of both the Independent Advisory Committee and the Minister which strongly opposed the proposal on the grounds the environmental effects were "unacceptable".

At the same time, the Minister refused Cleanaway's waste-to-energy incinerator project at Wollert on the grounds it lacked social licence because residents did not want it. However, the perception is that its refusal was politically motivated by the fact that it impacted the electorates of Minister D'Ambrosio and the Deputy Prime Minister, Richard Marles.

[15] MAV, *Reforming Victoria's Planning System, Local Government Sector Submission,* April 2025, p21

Recommendations

The EES process is not fit for purpose. It is now eight years since the 2017 review and urgently needs major overhaul.

A review of the EES process to examine the relationship between EES processes and the Amended MRSD Act before any new regulations are made, including amendments to the EE Act to cover circumstances where there is no statutory decision to be informed by a Minister's assessment.

A Parliamentary Inquiry be held into the EES process with emphasis on community consultation practices, including exhibition periods and deadlines.

EES assessments require all parties to comply with the principle of onus of proof. That strong penalties be imposed for failure to base reports and submissions on sound, independent scientific evidence and factual truth.

EES assessment processes be conducted in accordance with the principles of procedural fairness to ensure community participants are not disproportionately disadvantaged due to insufficient financial and time resources compared to proponents. If legal representation is unnecessary, as the EES Terms of Reference state, then, in the interests of procedural fairness, no parties should have legal representation.

The amendments to the MRSDA 1990 be reviewed to ensure that the revisions will inject genuine regulatory rigour, independence and transparency to project approvals.

VC242 be amended to establish transparent and accountable decision-making processes that stand up to public scrutiny, facilitate rigorous community consultation practices and uphold rights to appeal that are affordable and accessible to all citizens.

That community consultation practices specifying the principles of integrity, transparency, accountability and procedural fairness in decision-making be written into public policy and law, including human rights legislation.

Conclusion

ARMR finds from its participation in the EES and Panel Hearings over the past few years is the complete indifference and, at times, what seems to be disdain that many IAC members have for community members, no matter their professional qualifications, experience and deep inter-generational knowledge of the land and agriculture. No matter how well-researched and argued their cases, they are invariably dismissed as inconsequential; the adverse risks always low, acceptable and manageable.

A mature democracy rests on the government's will to engage its citizens in meaningful conversations about public policy. The more the Government rejects sound, reasoned research, the more communities become disillusioned with the consultation process. Frustrated and angry, mass demonstrations become the last resort. Little wonder there is growing cynicism about our political system. Weak laws and poor community consultation practices are undermining public trust in the integrity of our democratic processes. This is a threat to the viability of democracy itself. This must not be allowed to happen.