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New Zealand Petroleum & Minerals

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Submission on Crown Minerals Fees Review 2016 Discussion Document

Introduction

Minerals West Coast provides this submission on the Crown Minerals (Minerals and Petroleum) Fees Review 2016 discussion paper on behalf of its members. These members are made up of a range of mining companies, professional service providers, service providers and other interested parties.

This submission follows on from a meeting held in Wellington between NZPAM staff and Minerals West Coast representatives on 25 July 2016.

Minerals West Coast is aware that Straterra is also providing a submission on this discussion document and supports this submission in its entirety.

Minerals West Coast also provides administrative support to the West Coast Commercial Gold Miners Association and is aware of communication from this association to NZPAM regarding this fee review.

There are a number of concerns held by MWC in relation to this proposed fee increase. These concerns will be dealt with separately for the sake of clarity and an alternative fee structure will also be proposed for consideration.

Office of the Auditor General – Good Practice Guide – Charging Fees for Public Sector Goods and Services – June 2008.

Through the development of this submission, MWC has sought guidance from the OAG Guidelines as detailed above. Part 2 of these guidelines set out 3 principles to be used in settling a fee for services, these are detailed below along with the relevant concerns of MWC that relate to each principle:

- Authority

There is no argument that NZPAM does not have the authority to charge for permit application processing.

However paragraph 2.8 is relevant as it relates to the memorandum account. As identified by NZPAM this account is currently in deficit and the fee increase is required to ensure that the account returns to a zero trend.

It appears that the fee increase has been developed to fund the current deficit and this could fall outside the legal authority of NZPAM to do so.

If NZPAM has received any legal advice in this regard, this should be made public.

MWC also has concerns around the fairness in raising fees that will affect current and future participants within the mineral and petroleum industries to cover an historic deficit in accounts.

- Efficiency

It is recognised that NZPAM have undertaken a time allocation assessment of its staff in relation to the processing of applications under the Crown Minerals Act (1991). It is also understood that this assessment has been peer reviewed by Deloitte. However, this assessment has provided no context around the efficiency of the time spent by NZPAM in processing such applications.

Without understanding the level of efficiency within the permit processing system NZPAM are not able to provide sufficient evidence to justify the proposed fee increases.

Given that there is a significant variation in activities being applied for, there does not appear to be any consideration of equity between small scale hobby miners and larger mining companies, with a flat fee proposed across the board.

It is safe to assume that there would be less work involved in processing a small scale application than a large scale mining or exploration permit.

The following information is requested in order to further inform the assessment of efficiency within the permit process:

- A schematic or flow diagram illustrating the steps involved in mineral and petroleum permit applications.

It should become clear after a thorough assessment of existing processes within NZPAM if efficiencies can be gained within the permitting system.

- Accountability

A major concern of the minerals and extractives industry relates to the time involved in processing permit applications under the Crown Minerals Act (1991). Adding to this concern is the frustration at the lack of statutory timeframes around processing of said applications.

The Resource Management Act (1991) provides for statutory timeframes that each consent authority is required to observe and report on their performance in meeting these timeframes.

It is suggested that similar requirements are placed upon NZPAM. It is acknowledged that 'guidelines' for processing have been adopted and NZPAM are reporting on these, but to have these installed in statute would provide for additional investor confidence and allow increased certainty for existing participants within the minerals industry.

Transparency is identified as a key aspect of accountability, however without a detailed explanation of time and costs associated with administration of the permitting regime, transparency is not achieved.

The relatively crude assessment provided within the discussion document does not allow for an appropriate assessment of the time or cost factors involved in processing of permit applications.

It is acknowledged that consultation has been undertaken with relevant parties, however the timeframes involved are extremely tight and restrict the ability of some parties to be involved fully in the process. It also appears that the decision to raise the fees has been made and there is very little industry can do about this.

Implications for Industry

Minerals West Coast represents a number of family owned and operated mining companies on the West Coast. These companies contribute significantly to the West Coast economy through continued employment, investment and use of service industries.

Continued imposition of additional costs at time where the minerals industry is under significant stress could further reduce investor confidence and impose additional limits on exploration activities by existing participants.

The purpose of the Crown Minerals Act (1991) is set out in Section 1A(1) and states:

The purpose of this Act is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.

MWC does not consider that a rise in application fees will achieve the above purpose.

Section 1A(2) also sets out what the act provides for and this is as follows:

To this end, this Act provides for—

(a) the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and

(b) the effective management and regulation of the exercise of those rights; and

(c) the carrying out, in accordance with good industry practice, of activities in respect of those rights; and

(d) a fair financial return to the Crown for its minerals.

Without the appropriate assessment of efficiency detailed previously in this submission it is difficult to see how these provisions are being given effect to.

Paragraph 32 of the discussion document sets out the objectives of the fees review, in para. 32 c. recognition has been given to the potential disruption of the industry. On the face of it, the assessment provided in relation to government imposed costs on the industry is extremely light, with additional costs being imposed through:

- Resource Management Act
- Conservation Act
- Wildlife Act
- Mining Regulations
- Health and Safety At Work
- Heritage New Zealand Pouhere Taonga Act

There are already significant barriers to entry within the minerals and extractives industry and further fee increases as proposed will only increase the barriers and continue to stifle development, exploration and investment.

Impacts on Compliance

The costs of monitoring compliance with the provisions of minerals permits is often cited by NZPAM as a key driver of increasing costs. Anecdotally a large proportion of non compliance has been caused

by administrative oversight or a failure to apply for required changes in conditions associated with permits.

A number of operators have cited the cost of applying for the required change of conditions as the reason for this. The proposed increase in fees for permit change applications will impose further cost prohibitions on these permit change applications, likely leading to further non compliance and increases in administrative costs to NZPAM.

Again it is important for industry to understand what processes are followed when NZPAM deals with permit change applications (change of conditions) and how the fees have been set.

Alternate Fee Structure

MWC has reviewed a number of fee structures for permissions that relate to the minerals industry in developing this submission. The most relevant fee structure that could be applied to the Crown Minerals Act is the actual and reasonable fees charged under the Resource Management Act (1991).

Most consent authorities charge on a cost recovery basis and also require a deposit to be paid when resource consent applications are lodged.

Mining specific application fees can vary depending on the scale of activity proposed. Any costs incurred over and above the application fee are charged on an actual and reasonable basis, with processing officers being charged out at a set hourly rate.

Adopting a regime such as this, will allow for greater equity in fee charges and will not impact upon the smaller participants within the industry.

It would also solve the problems that NZPAM have identified in relation to poor quality applications impacting on time allocation and delays in processing higher quality applications – this fee regime would see applicants bear the cost of their own applications.

Proposed Fee Review 2019

Minerals West Coast understands that a further fee review is proposed in 2019. Given the information gaps identified within this submission around efficiency of the current permit processing regime, any increases should be deferred until a full and proper assessment of efficiency is completed.

Other Issues

The implementation of the 'Online Permitting System' has been identified a cause of increased costs associated with administration of the permit regime. This was implemented at significant cost and from an applicant's or permit holder perspective has not resulted in significant efficiency gains.

Taking a commercial approach to the current situation where costs exceed revenue, any commercial activity would not look to raise the costs of services to meet this shortfall. In any business where this is the case an assessment would be made across the activities to determine where cost savings could be made and efficiencies gained. Minerals West Coast again requests that NZPAM under such an exercise in relation to the administration of the permit regime and defer any fee increases until the results of this exercise are known.

NZPAM has also identified the possibility of an increase in activity within the extractive and petroleum industry offsetting the current deficit in the future. However increase fees associated with permitting will actively discourage such activity.

Summary

Minerals West Coast proposes the following:

- An assessment of the proposed fee resolve the current deficit within the memorandum account against the 'authority principle' of the OAG Good Practice Guidelines.
- NZPAM undertakes an efficiency review of the current permit processing regime with input from industry representatives to ensure a commercial approach is part of this review.
- The proposed fee increase is deferred until after the results of this efficiency study are known and communicated to industry.
- A full review of the fee regime is completed in conjunction with a review of the Crown Minerals Act (1991) and 2013 Minerals Programme.
 - This would include provisions for statutory timeframes to be imposed for permit processing.
- NZPAM gains a greater understanding of the proposed fee increases on the industry, regions that rely on the mineral and extractives industry (West Coast) and how this will act against the purpose of the Crown Minerals Act.

Yours Sincerely

A handwritten signature in black ink, appearing to be 'Phil McKinnel', written in a cursive style.

Phil McKinnel

Manager – Minerals West Coast