Environment Institute of Australia and New Zealand Inc.

28/02/3021

Via email to:

environment.policy@nt.gov.au

Dear Sir/Madam

Re: Submission to the *Regulation of mining activities* Paper

Thank you for the opportunity to make a submission to the above policy.

The Environment Institute of Australia and New Zealand (EIANZ) represents environmental professionals working in environmental science, land management and related professional services such as cultural heritage, legal, community engagement, social scientists, academics and researchers and non-government organisations.

The NT EIANZ Division has a keen interest in environmental policy and legislation development and appreciates the invitation to make a submission.

We have provided direct responses to the consultation questions as an attachment. The attachment also notes areas where further clarification on the proposed reforms are required. Our general comments on the paper are as follows.

The mining industry has navigated itself through some important reforms recently, the social license concept has been generally adopted and we have seen substantial performance improvements. However, the advocate-as-the-regulator model (or sectorial capture) within the NT has instilled a culture of suspicion about the industry. This has not been helped by non-transparent processes, non-public reporting and a disconnect between approval conditions and MMP obligations. We believe the reforms outlined in the paper will ameliorate these concerns.

We took particular interest in any water reform within the paper. The current on/off-tenement management have resulted in unnecessary duplication in water quality licensing and we endorse the proposed reform. We are unsure about water use and proposed licensing requirements. This issue attracts a lot of public interest, maybe some clarity around where this reform is up to could be forthcoming?

The EIANZ NT division generally supports the proposed environmental registration and licensing scheme (ERLS). This important initiative will allow discrimination between day-to-day low-risk activities and those that require more attention from an environmental protection perspective. We believe (notwithstanding our comments below) that the proposed reforms will simplify the approval process for proponents, streamline assessments for the regulators and improve transparency for the public. The ERLS is dependent on well-considered standard requirements and we expect that there will be consultation with industry around this.

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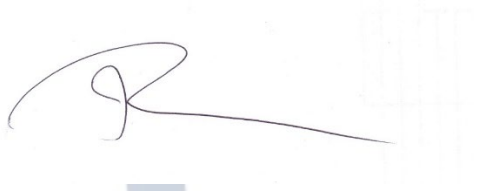
However we believe the proposed reforms do not address the extractive minerals sector all that well. The extractive minerals sector often involves multiple parties sourcing product from a common area or region. When that occurs, it is necessary to undertake a cumulative assessment of impacts from multiple operations in addition to assessment of the impacts of individual operators. There is no reference to cumulative assessment in the paper, and it is unclear how the extractive minerals sector will be addressed in the anticipated regulatory reforms.

In addition, we believe that it should be mandatory for operators to demonstrate their capacity to fund mine rehabilitation or remediation, whether through an appropriate mining security or some other means. We feel that the paper implies that the securities or bonds impose too high a cost burden on miners because security "… *provisions 'lock' available financial resources away from proponents*" and "… *may decrease investment attractiveness and increase complexity for operators seeking financial investment.*" We disagree with this for two reasons. Firstly, in the current environment of exceptionally low interest rates and borrowing costs, the cost to proponents of providing a mining security is not as great as some believe or understand. Posting and maintaining a mining security may represent more of a challenge for some proponents than others depending upon their ability to access finance at an acceptable cost. As such, the capacity of a proponent to post and maintain a mining security reflects variation in the strength of their current and projected financial position rather than anything related to the nature or cost of progressive mine rehabilitation and/or eventual remediation. Secondly, if recent history is a guide, an increasing number of investors recognise the merits of investing in a proponent who is committed to, and demonstrates it has the resources to, undertake remediation or rehabilitation as an integrated part of the mining life cycle because this contributes to the expectation of ongoing community support (social licence). It is likely to be extremely challenging to develop and maintain community support (social licence) for a mining project if a proponent is unable to demonstrate it has the commitment and resources to undertake mine remediation or rehabilitation. Therefore, the proposed reforms should in no way compromise on requirements for operators to demonstrate their capacity to fund mine rehabilitation.

Again, thanks you for the opportunity to make a submission to this policy; overleaf are our responses to the questions posed in the paper.

Yours sincerely,



JEFF RICHARDSON,

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Northern Territory Division

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Attachment: Responses to specific questions

Environment Institute of Australia and New Zealand Inc.

Question	Comments
6.1 PROPOSED FRAMEWORK – GENERAL ENVIRONMENTAL DUTIES	
1. Is the approach of imposing general (mining) environmental obligations or duties to provide a 'safety net' and support for the licensing and registration scheme supported? If not, why?	Absolutely, agreed and consistent obligations can only improve the process, as long as the general mining environmental obligations are robust. The use of 'safety net' in this unclear; who is being kept safe from what? Does it refer to using minimum standards to protect the environment? One disconnect though: page 7 states that, "*DITT will be will be responsible for the assessment and authorisation of …. closure plans*"; but DEPWS "*will be responsible for monitoring, compliance and enforcement of those licences and registrations and environmental outcomes (including remediation, rehabilitation and closure objectives)*." Should DEPWS have a hand in developing the closure plans? Similarly, DITT is responsible for determining bonds but may have little experience in actual on-ground remediation. We are unsure if bonds are sufficient and we haven't seen any consideration of reviewing these.
2. What alternatives should be considered?	No comment.
3. What other general (mining) environmental obligations should be included?	The general mining environmental obligations should include a requirement that decommissioning and rehabilitation are conducted in a manner that minimises environmental impact and considers end land users' requirements. Alternatively, the item "design, maintain and operate structures (e.g. pits, tailings storage facilities) in a manner that minimises environmental impacts (including amenity impacts)" could be adjusted to, "design, maintain, operate, decommission and rehabilitate structures (e.g. pits, tailings storage facilities) in a manner that minimises environmental impacts (including amenity impacts)." A line item requiring works and rehabilitation to consider traditional owners and other end land users/managers should be included.

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	There is concern over the phrase "minimise environmental impacts, including the generation of wastes and pollution, to those **necessary for the establishment, operation and closure of the site**". This is broad. Most impacts could possibly be justified as being necessary for the establishment, operation and closure of a site. It would be hard to argue that anything isn't necessary for those activities. This line item could allow environmental impacts to be justified rather than reduced. General guidance around surface and groundwater protections and weed/feral animal management should also be included.
6.2. Environmental registration and licensing scheme overview	
The risk screening process described on p. 10 appears to be a two-step process based on activity type then activity context. This is not a holistic assessment, where each proposal would be assessed in its entirety and with reference to the surrounding environment and potential risks. This may mean that an extractive activity may be screened moderate risk despite having the capability to disturb a significant area. There is the possibility to screen out high risk exploration or extractive activities inadvertently. Page 11 states, "It is likely that all exploration activities and some extractive activities will operate according to an environmental registration." It should be considered that there are some exploration activities such as large-scale exploration program and RAB drilling which involve a lot of clearing of new tracks which could create a significant cumulative environmental disturbance. Similarly, some extractive operations, although modest in scale, are in highly important environmental areas. A holistic risk assessment process incorporating a source-pathway-receptor model may be useful to ensure all activities are assessed based on risk, rather than screened based on activity type. The risk criteria provided in Table 1 are phrased to imply a lack of risk, rather than describing the risk. Table 1 appears to be a set of criteria that if met would only require the standard conditions. This does not provide information on how risks will be evaluated if any of the criteria are not met. It is also unclear if risks will be assessed with or without controls. Further information is required on how risk will be assessed for operations that do not meet these standard criteria. How will they be addressed in the licensing process? The paper does not talk to the relationship between the nomination by the proponent and the end decision by the regulator on the level of registration/licensing that will be approved. How will the nomination be evaluated to determine the level of registration/licensing?	
4. Rather than relying on a non-exhaustive list of substantial disturbance activities such as that contained in s.35 of the MMA, should the new framework legislation identify an exhaustive list of non-disturbing activities? This could include, for example, airborne surveys and	Broadly this approach sounds suitable. However, care should be taken with exhaustive lists and qualifications should be included to ensure that any activities (such as seismic surveys) undertaken in areas with sensitive receptors are suitably managed to minimize environmental impacts.

terrestrial seismic surveys undertaken using existing tracks.	
5. Are there any mining related activities that currently require authorisation and a mining management plan that should not be subject to the new framework?	None known.
6. Are there mining related activities that are not currently required to be authorised that should be under these reforms?	The regulatory review process should consider situations where mining and milling are separate (such as toll milling). The processing might not fall under a mining activity definition. The regulatory review may also need to consider mining (i.e. extractive) activities that occur without mining tenure such as on private land or secondary processing away from mine site.
6.3. Environmental registrations, 6.4. Environmental licences, 6.5. Registration and licence condition reviews	
Page 11 states, "To the extent allowable by law, registrations will be valid for the life of the registered mining activity, and may be transferred between operators, suspended or revoked." Section 6.5 describes a proposed process for reviewing standard licencing conditions and risk criteria. Consideration should also be given to how the level of licensing applied to a particular activity may need to be reviewed across the life of a mine (e.g. exploration activities which change from year to year). Will there be triggers for the re-assessment of an activity's license if the activity's risk profile changes? Page 10 states, "An environmental registration for activities considered lower in risk and able to be managed based on identified risk criteria and standard conditions." Page 11 states, "Registrations will be subject to standard conditions to manage environmental impacts. Different conditions are likely to be based on the type of activity that is being registered; i.e. conditions associated with the registration of an exploration activity would be different to those associated with registration for an extractive activity." The former sentence implies that registered activities will only be subject to standard conditions. The latter sentence implies there will be different conditions for particular registered activities. This requires clarification.	
7. Under what other circumstances should the CEO be able to amend the conditions of a licence?	The CEO should be able to amend conditions of a licence: • where monitoring or research reveals new information about the sensitivity of the environment and indicates that current levels of protection are insufficient • where there is a change in the proposed activities or mining methods • where there is a high level of uncertainty around the potential impacts of an activity • where monitoring indicates that a higher level of protection is required • when the operation is moving into care and maintenance.
6.6. Independent specialist review and sign-off	

8. What protections could be included in the legislation to ensure peer review powers are only used when required to ensure that the licensing process provides the necessary environmental protections and meets the objectives of the EP Act?	A transparent risk assessment process should be used to make the determination of whether peer review powers can be used. This risk assessment should consider the sensitivity of the receptors and the potential impacts of the proposed activities. If there are activities determined to be high-risk, or if there is a high level of uncertainty around potential impacts on high-value receptors, it would be reasonable to consider a peer review as "required".
9. What information or assistance could you provide to enable administrative guidance that supports a "prepare once, use many" approach to peer review documents to be developed?	No comment.
6.7. Public participation and transparency, 6.8. Improving timeliness and certainty, 6.9. Environmental incident reporting and recording	
Page 14 states, "It is also proposed that the legislation require public reporting of environmental impacts." Clarity around how environmental impacts would be defined and assessed is required. Page 15 states, "Recordable incidents would be reported annually (or as otherwise specified in the conditions of the environmental registration or licence)." Clarity is required around how the consistency and completeness of incident reporting will be verified. It is crucial to ensure there is no reward for not reporting incidents.	
6.10. Environmental compliance and enforcement	
10. Are there any compliance and enforcement tools not currently available in the EP Act or the MMA that should be considered for inclusion as part of these reforms?	Page 16 states, "It is proposed that the legislation include 'show cause' processes where the CEO intends to revoke a registration and grant a licence or to revoke a licence. Alternatively the DEPWS CEO may choose to use the proposed 'performance improvement agreement' process (as outlined above) to improve environmental outcomes for a registered or licensed operator." Revocation of license, imposing a license or enforceable undertaking are the only three compliance and enforcement options discussed. There is a risk that some operators may be happy to have their license revoked as it distances them from their rehabilitation requirements. Consider including fines and/or impacts to future license impacts as potential compliance and enforcement tools.
6.11. Mine remediation and environmental licence surrender	
Page 16 states, "Best practice mining management requires planning for mine closure to be integral to mine feasibility studies, mine development and operational planning, with detail increasing as the mine moves towards closure, rather than left to the end of mining operations."	

This suggests closure plans will be reviewed and refined through the life of the operation, however it is unclear how these updated closure plans will be assessed or incorporated into the license. Under the MMA, updates to the MMP are the mechanism by which closure activities are updated throughout the mining life cycle. There doesn't appear to be a similar process outlined to assess the evolution of the mine closure plan. Therefore, how will best practice in planning for mine closure be assessed and enforced? Page 16 states, "At the cessation of mining and the successful completion of closure requirements the operator will need to apply to surrender the environmental registration or licence. DEPWS will consider the application and determine whether the agreed environmental outcomes and closure objectives have been achieved. …. As part of the process to improve certainty and guidance for proponents, mine environmental remediation guidelines will be developed." Any remediation guidelines should ensure that the specific environmental, social and operational context for the mining operation be considered, rather than relying on generic guidance. Guidelines should be subject to public consultation, as this paper does not make clear what agreed outcomes and closure objectives will be considered appropriate and how the determination of success will be made. Page 18 states, "Care and maintenance - refers to periods of mining inactivity that still require active environmental management. Defining this period could increase understanding about any ongoing management obligations." Significant work needs to be done on licensing and or authorising 'Care and Maintenance' status. This has historically been used as a parking zone to not rehabilitate mines with companies often going bust while in care and maintenance. A balance needs to be found between resource sterilisation through rehabilitation and care and maintenance just in case the resource is viable sometime in the future. Page 18 states, "Legacy mine site – currently referred to as unsecured mining activities. Improving definitions for different types of legacy mine sites and features will improve future remediation and active management options and associated management responsibilities and expectations." It is unclear how improving definitions improves future remediation and active management options.	
7.2. Authorisation and Mining Management Plan reform	
11. What improvements to the mining authorisation process do you consider would improve efficiency and effectiveness?	Ensuring any conditions are clear, measurable and enforceable. Page 17 states, "Reduce regulatory burden and provide for a streamlined approval process to authorise mining activities by removing the need for mining management plans in their current form." The paper does not outline an equivalent of the Mining Management Plan (though on page 7 it talks of a Mining Program). Removal of the MMP and environmental considerations is discussed but no information provided on what will be considered in granting and authorisation. Without the MMP, how are authorisations considered and determined?

	A comprehensive and fully detailed plan for closure (including a detailed rehabilitation plan) should be required before authorisation is granted. If rehabilitation techniques improve during the life of the mine, variations to the closure plan may be granted and should be encouraged to ensure that all rehabilitation is undertaken using best-practice approaches.
7.3. Management of mining securities	
12. How can the mining securities framework be improved?	Most sites are under-secured. Any securities framework should work to ensure this does not occur. The framework needs to consider how future rehabilitation is considered in the security value given the rehabilitation plans may be very limited early in the life of an operation. Undertaking separate calculations for an infrastructure security and environmental disturbance security needs further clarification as often they are interrelated. For example the remediation of an above ground waste storage facility may not be effective in restricting ongoing groundwater contamination.
13. How can the management of mining securities be improved to provide greater incentives and reward for progressive rehabilitation?	Having sensible completion criteria (CC) and transitional CC may help. During the heat and passion of an approvals process proponents default by setting CC as "back to natural". However, achieving a restored "natural" ecosystem may take decades, if this is ever achieved at all. How then does the regulator reward progressive rehabilitation? Possibly by rewarding those proponents that have undertaken trials during mining and those that have defined practical transitional CC. A quick, yet robust, process for assessment of rehabilitation outcomes by the regulator would increase the incentive for progressive rehabilitation to be completed, as security return would be streamlined. Consider providing partial relinquishment of security for undertaking activities quickly but withholding some security until environmental outcomes are proven. Final security relinquishment should be tied to environmental outcomes. Some more novel approaches could include discounted security based on past successful performance, release of security based on percentage achieved and preferential access to exploration rights for companies with proven rehabilitation success.

14. What improvements could be made to the calculation of mining securities to better address potential environmental risks and impacts?	Clarify if the security is based on sudden unplanned closure or planned end of mining operations. It is unclear how periods of post-rehabilitation monitoring to verify closure objectives have been achieved will be considered in the license surrender process. These timeframes may be decadal in some cases. Are the mining securities based on real world experience, has there been a review of this?
15. What other matters would you like to see considered as part of a review of mining security assessment?	Operator historical performance. End land users' expectations and involvement of end land users in assessing rehabilitation outcomes.
7.4. Reviews of mining decisions	
16. Should mining operators have standing to seek a merits review of the proposed environmental and/or infrastructure security? Why?	Mining operators should have standing to seek a merits review but there is concern such standing could be used frivously and create excessive burden. A merit review should only be able to be sought by a mining operator under strict criteria, such as an independent peer review prior to seeking a review. Other parties should be able to seek a merit review, too. As such, securities should be publicly displayed.
7.5. Management of care and maintenance periods	
17. How should 'care and maintenance' be defined?	The definition should include the following components: • Care and maintenance is a temporary, finite period during which no production will occur - either mining or processing of ore. • During care and maintenance, the site will be monitored and maintained to keep machinery etc in working order, safe, and serviceable for resumption of production. If plant is not being maintained, the site should be considered to have been abandoned. • During care and maintenance, active management of environmental risks continues. For a particular operation, the definition should take into account: • Likelihood of restart potential… i.e. future resource value. • Likelihood the company will remain solvent.
18. What other mechanisms could be adopted to improve the	Include environment management as part of the definition (as above).

management of environmental impacts during care and maintenance periods?	Require a clear description of proposed care and maintenance risks and activities. Assess proposed risk controls. Require companies to adjust environmental management (and other related) plans and procedures to take into account changes in resourcing and company circumstances as the site moves into care and maintenance. Existing plans for the operational site may not be appropriate in the changed circumstances. Ensure that care and maintenance plans are submitted during the approvals process, which raises the question: what if there is no approval process?
19. Should the legislation impose a time limitation on how long a site can remain in 'care and maintenance'? If so, what period may be appropriate?	Yes. Define a standard period and then review based upon likelihood that the mine can restart in consideration of the company and the financial environment for the commodity. 2-5 years may be appropriate.
20. What, if any, standard obligations for environmental management during care and maintenance periods should be incorporated into the EP Act?	Companies should be required to ensure they have and dedicate sufficient resources to environmental management during care and maintenance. Prior to entering care and maintenance, all progressive rehabilitation operations must have been carried out. The mine site should be left in a condition where if it subsequently fails to resume operating, there will be no adverse environmental impacts. Standard obligations could include: • ensuring the site poses no risk to the off-site environment or people • ensuring the landform is stable and safe • weed management • feral animal management • water quality monitoring ongoing • continue with progressive rehabilitation if possible • routine reporting on environmental management outcomes and compliance with standard obligations
7.6. Management of legacy mines	
21. In addition to the proposals contained in this paper, what other mechanisms could the Territory introduce to minimise the potential for	It would be pertinent to analyse the root cause of historical legacy issues and ensure appropriate controls are in place to prevent those root causes reoccurring. Additional mechanisms may include considering a company's/director's historical rehabilitation performance before granting licenses.

legacy sites to be created in the future?	
22. In what ways can industry be encouraged and supported to play a larger role in undertaking remediation works on legacy sites?	Public-private partnerships. Preferential rights for exploration licenses for the area where there is legacy sites, with provisions that the legacy sites must be addressed should the area be developed.
7.7. Land access arrangements	
23. In what ways could the management and administration of land access arrangements be improved for both mineral title holders and affected landholders or leaseholders?	Clear requirements for transparent consultation with affected landholders or leaseholders.
8. Transitional arrangements	
Arrangements for mines with cross-jurisdictional regulation (eg Ranger and Rum Jungle) are not described.	
24. How would the proposed transitional arrangements effect your mining activity?	No comment.
25. What improvements could be made to the proposed transitional arrangements to facilitate the transfer of projects into the new system in a timely, staged and efficient manner?	Clear guidance for proponents on what needs to be done – showing milestones, targets etc. Dedicated departmental resources assisting proponents across both departments.
26. For each type of mining activity – exploration, extraction and mining operations – what would be an appropriate timeframe in which to require the activity to obtain an	No comment.

environmental registration or licence?	
27. Are the proposed arrangements for non-finalised processes appropriate? If not, what alternative processes should be considered?	No comment.
28. What arrangements would you propose for operators that wish to transfer the mining activity?	No comment.
9.1. Residual risk payments, 9.2. Chain of responsibility legislation	
29. What elements would you like to see included in a residual risk framework?	The residual risk framework should not only consider repairs and maintenance to infrastructure, but include provisions for money to be kept until models which suggest no residual environmental impact can be verified. That is, if a model suggesting that the mine site at closure will have no residual impact on the environment is used to justify closure of a site, then all money should not be returned to the proponent until that model and the lack of residual impact can be verified. For example, groundwater models could be verified to show that peak loading has subsided before return of security. Money should be set aside for additional remediation if monitoring is not in line with modelling.
30. Are there specific matters that should be considered as part of developing a residual risk framework applicable to mining activities?	Uncertainty in modelling or predictions informing residual risk assessments should be considered.
31. What benefits might there be to applying chain of responsibility laws to mining and other environmentally impacting activities?	Ensures that companies are not set up creatively to allow companies to avoid their responsibilities. Minimize the risk of liability falling to government.

Response to mining regulatory reform

This document is well-written, well-researched on the whole – but there are many glaring omissions.

The move to streamline regulatory approvals and modernise the oversight of mining activities is welcome. The current system is costly and bureaucratic. It is good to migrate all impact assessment and management provisions to one agency. Companies should be able to prepare an EIS, with attached management plans and commitments, which then transition to whole-of-life regimes for monitoring and management. Currently, impact assessment documents require detailed environmental management plans, including a Social Impact Management Plan. This information is then either ignored or regurgitated at length in Mining Management Plans for a different regulator. There is no continuity with the conditions of environmental approvals.

There is a disconnect between the two processes, hence enormous repetition and unnecessary paperwork. Commitments made by companies in their management plans are rarely enforceable or accountable. Licensing should transition these management plans, requiring additional work only to meet gaps in information provided, address conditions of approval and make provision for capturing issues that may emerge in future.

Impact assessment includes people

However, the document is deficient in failing to acknowledge that impact assessment, management and monitoring covers both the natural and the human environments.

Mining impacts on people and communities, not just plants and animals.

Mining companies' obligations should extend to people and communities, not just the environment.

There is no separate approval process for social and cultural impacts.

Social licence has to be earnt by whole-of-life-cycle respect for both the human and the natural environment which is affected by all mining activities, not just impacts on the natural environment.

Community confidence requires good social performance plans and is undermined by company behaviour and perceptions of inadequate legislation and accountability.

This document is silent on how any of these issues – covered by current impact assessment and mine management plans - will be managed for the life cycle of projects.

How can communities have confidence in a regulatory system that doesn't consider how mining projects will impact on them, their quality of life, lifestyles and livelihoods?

The document does not reflect the objects of the new *Environment Protection Act* 2019, which acknowledge Aboriginal people's stewardship for their land and the importance of early and meaningful community consultation.

A search of the document finds zero use of the words: people, humans, cultural, Aboriginal, Indigenous, traditional knowledge, traffic or grievance management. The word 'social' appears twice, but only with passing references to 'social licence'. It does not cross-reference to plans that mining companies are expected to adhere to such as community benefit plans and Indigenous participation. The only reference to 'persons' is in relation to land access and merits reviews.

There are no definitions of key terms, starting with the word 'environment', which is generally taken to mean the natural or biophysical environment or biodiversity. The word 'sustainable' is used only

once – and without definition. A 'sustainable resources industry' (p.1) is one that endures. There is no reference to 'sustainable development' or social, cultural and economic sustainability (societies that endure).

There is acknowledgement of issues such as damage to sacred sites (p.6) but no further reference to how this will be addressed in the new regulatory environment.

Yes, legislative reform must be supported by increased guidance, improved systems and processes and appropriate resourcing: for all impacts of mining and with appropriate mechanisms for people to raise grievances and have confidence that operating approvals contain enforceable and accountable commitments. The ability to raise grievances with both companies and regulators is just as importance as incident reporting and recording.

The role of mining is presented (p.1) only as building a strong economy for Territorians (and not social wellbeing, social sustainability, human capital and economic benefits for Aboriginal people). The only reference to any impact on humans is the word 'amenity' (used once without definition or explanation of what amenity covers). The role of government should be to ensure that mining maximises the social, cultural and economic benefits of its activities (including distributive equity) and minimises its environmental, social, cultural, health and economic harms (such as displacing other economic sectors).

The aims of regulatory reform should not reflect just the pressures of the moment. In 2020, the pressure is economic recovery. In five years, the economy might be booming and the pressure on regulators may be the behaviour of FIFO workforces and pressure on social infrastructure and local economies from 'boom and bust' development, as experienced in Queensland and New South Wales with coal mining and coal seam gas projects.

The aim should be mining that protects and is in accord with the Territory's unique social, cultural, natural and economic values.

Sectoral capture

While the document recognises 'sectoral capture', the approach does not in fact address this issue simply by separating environmental and operational authorisations. The Department of Industry, Tourism and Trade will still both promote and regulate aspects of the mining industry (assessment and authorisation of mining activities, closure plans, legacy mines, monitoring, compliance and enforcement of the mining authorisation). Avoiding sectoral capture requires an independent regulator to give the public confidence that regulatory regimes are robust, transparent, well-resourced and unbiased. This is particularly acute at a time of pressure on economically-oriented agencies such as DITT to streamline and fast-track projects.

Public participation

Public 'comment periods' and advertisements in no way constitutes public participation and transparency. Public participation, or community engagement, requires early and meaningful consultation (listening) with affected communities before key decisions are made. Few people scour newspaper advertisements on the off-chance that an obscure mining notice might affect them. Participation requires proactive efforts to identify everyone who may have an interest in, or be affected by, a project then personally contacting them, providing adequate information to understand the implications of a project and giving them a chance to provide genuine input (as covered in the NTEPA's guidance note for proponents on community engagement). For Aboriginal communities, there is the obligation to obtain Free, Prior and Informed Consent. For vulnerable and

marginalised peoples, participation requires a process that allows the time and appropriate resources to consult appropriately.

True public participation will actively involve affected people and communities in key decisions on mining approvals, operations, mine closure and rehabilitation. As demonstrated in Nhulunbuy and Jabiru, mine closure has far-reaching implications for governance, infrastructure, social sustainability and the economic viability of towns.

This starts with understanding people's perspectives on the sensitivity of environmental disturbance (a changed landscape can change sense of place and wellbeing), how they want to be involved (eg community involvement in monitoring and rehabilitation, community consultative committees) and plain English reporting back (as with the McArthur River Mine independent monitor or community report cards).

The only reference to consultation in the entire document is on p.12: involving the mining industry and other stakeholders to develop risk criteria.

Cultural impacts, traditional knowledge

There is no recognition in this document that mining almost always takes place on land to which Aboriginal people hold enduring rights, the need to observe legislative requirements such as heritage and sacred sites certificates. There is no reference to consideration of traditional knowledge, co-management, ensuring communities get benefits from economic development. There is no reference to the specific sensitivities of Aboriginal people to environmental impacts on their land and how this might affect cultural values and livelihoods (for example Rum Jungle). This should be part of whole-of-life monitoring and management: from exploration to mine closure.

The location-based criteria make no provision for projects that offend local social and cultural values or that have an unreasonable impact on people – not just those in towns.

Reference to best practice

There is no reference to industry best practice documents, including the International Association for Impact Assessment, Minerals Council of Australia, International Council of Mining and Metals (ICMM) and AusIMM or international covenants such as the Sustainable Development Goals, human rights or United Nations compacts. See also work by the Sustainable Minerals Institute of the University of Queensland.

On p.13: in relation to information being prepared by a 'qualified person', the EIANZ would support certification of all practitioners working on such documents. What constitutes 'suitably qualified' should be spelt out in more detail.

Transport of waste

p.14: The reference to there being 'little public benefit' in advertising the transport of waste. There are occasions when this is a contentious topic and there is substantial public benefit in transparent applications. This should be determined on a case-by-case basis.

Strategic assessments

It would be valuable to add reference to strategic assessments that consider the social, cultural, economic and ecological impacts of region-wide development and how such assessments might streamline approvals by both gathering baseline data but also providing advice on appropriate authorisations.