# RESPONSE TO SUBMISSIONS
# STREAMLINING (MINING AMENDMENT) BILL 2021

The Department of Mines, Industry Regulation and Safety (DMIRS) is proposing amendments to the *Mining Act 1978* (Mining Act) through the Streamlining (Mining Amendment) Bill 2021 (the Bill), with the purpose of simplifying the activity approval processes for the mining sector.

The key components of the Bill will allow for a quicker approval process and easier administration of compliance with conditions of approval, through the:

1. Introduction of a low impact notification for the automated assessment and authorisation of low impact activities subject to standard conditions; and
2. Introduction of a single Approvals Statement for mining operations.

Supporting administrative amendments also introduce efficiencies and transparency of the assessment and approval processes under the Mining Act.


The Consultation Draft of the Streamlining (Mining Amendment) Bill 2021 and supporting information sheet were released for public comment on 3 May 2021 for an eight week period closing 25 June 2021. During the consultation period, DMIRS held a number of public information sessions in May and June in Perth, Bunbury and Kalgoorlie as well as online to provide an overview of the Bill.

DMIRS also met with industry peak bodies and other Government agencies during the consultation period to discuss the proposed amendments.

## Stakeholder Comments

The review process notified respondents that their submissions would be made publicly available on the DMIRS website. For the purposes of more easily grouping and responding to feedback from stakeholders, the submissions have been sorted by general comments, administrative comments and Divisions of the Consultation Draft Bill. The text of submissions are included verbatim.

DMIRS thanks all stakeholders for their considered input into the process.

## Key Themes of Feedback Received

During the consultation period, DMIRS noted feedback identifying the need to review the requirement for existing approved activities to transition to the new framework; and provide further information on the potential structure of a Mining Development and Closure Proposal. An additional information sheet was released on 3 June 2021 providing further details on these matters.

Key themes arising from stakeholder feedback are identified and addressed below, as well as specifically in the detailed Response to Submissions below. Some comments regarding broader scale Government reform are appreciated and will be considered as part of other initiatives and core business activities which seek to improve efficiencies across Government, complementary to the legislative amendments progression and implementation.

**1. Details sought on the form and content of a Mining Development and Closure Proposal (MDCP).**

The removal of statutory guidelines in the Bill for the form and content of applications was widely supported. The Bill provides the scope of information to be provided in applications (see 103AM(3) for MDCPs). A detailed and thorough review of the content requirements of a MDCP and the Mine Closure Plan would be undertaken following passage of the Bill and be subject to further consultation. This will inform any additional content requirements to be prescribed in the Mining Regulations 1981, and non-statutory guidelines to be released by DMIRS to support proponents to prepare their applications.

**2. Confirmation sought that procedural fairness will be afforded for variations or cancellations of an Approvals Statement.**

DMIRS provides procedural fairness as part of its administration of its legislative responsibilities, and affords opportunities to review by affected parties commensurate to the scale or impact of the change. For example, recommended conditions on the Approvals Statement would be provided to the tenement holder for an opportunity to comment prior to the Approvals Statement being issued. In regard to cancellations of Approvals Statements, if the Minister (or a delegate) was considering this decision, the tenement holder would be provided the opportunity to review and provide a submission for consideration by the decision maker.

**3. Transitional arrangements for previously approved mining are not supported in their current form.**

The Department received feedback from stakeholders that there are significant concerns regarding the proposed transitional provisions for previously approved mining proposals released in the Consultation Draft. As communicated at the information sessions and in the additional information sheet released during the consultation period, the Department has reviewed and revised these transitional provisions.

All 'previously approved mining proposals' will continue to be approved as they currently stand.

The new Transitional arrangements for previously approved mining proposals now includes two sections relating to the transition of mining proposals as follows:

i. Transition of existing undetermined mining proposals (*those currently awaiting a decision by DMIRS*)

Any applications that are lodged prior to the commencement of the amendments, but are still under assessment and awaiting a decision by DMIRS at the time of commencement, will be taken to be a Mining Development and Closure Proposal. The mine closure plan in the application will be taken to be the closure information required to be included in a Mining Development and Closure Proposal under the new Part IVAA.

ii. Transition of previously approved mining proposals (*those previously approved by DMIRS*)

The transitional provisions have been revised so that there is no longer a requirement to submit a Mining Development and Closure Proposal for existing, approved activities in order to retain approval for those activities after the transition period has ended.

Instead, during the transition period (now 10 years with the possibility for extension by the Minister for Mines and Petroleum), the Department may issue an approval statement to the tenement holder for the mining operations proposed in a previously approved mining proposal.

The Approvals Statement records information regarding the previously approved activities and relevant conditions of approval. As such there is no reassessment of previously approved activities. To afford procedural fairness, tenement holders will be offered an opportunity to review their Approvals Statement prior to it being formally issued.

All Mine Closure Plans will continue to be approved as they currently stand, and will be transitioned to the new Part IVAA as the review of the Mine Closure Plan is undertaken per the date set out in tenement conditions.

As per the consultation draft:

- All Programmes of Work will continue to be approved as they currently stand.
- All tenement conditions will continue.
- All securities held for compliance with environmental conditions will continue.

**4. Details sought on what constitutes a low impact activity, and confirmation that the clearing permit exemptions for Native Vegetation Clearing Permits will apply.**

Revised name to 'Eligible Mining' Activity

DMIRS acknowledges that the Aboriginal Cultural Heritage Bill (ACH Bill) is also proposing amendments that use the term 'low impact'. Acknowledging the potential for confusion between the proposed ACH Bill amendments and the Streamlining (Mining Amendment) Bill 2021, DMIRS has changed the name of the 'low-impact activities' to 'eligible mining activities' (EMA).

Division 2 has been renamed from 'Low Impact Activities' to 'Conditions and notices relating to eligible mining activities'. In order to set a scope on the type of activities that can be considered an 'eligible mining activity' now that the reference to 'low impact' has been removed, the provision has been updated to state that an activity done on land the subject of a mining tenement may be prescribed an eligible mining activity if the activity:

a) uses machinery to disturb the surfaces of the land for the purposes of, or in preparation for, mining, and

b) the activity can be carried out with minimal disturbance to the surface of the land.

The addition of 'minimal disturbance' is intended to retain a scope on the type of activities that could be prescribed in the Regulations as an EMA. This is to ensure that, consistent with the previous Low Impact Notification framework, the types of activities that could be applied for through an EMA notice are those that pose low risk to the environment and can be authorised via automated assessment rather than assessment by an Environmental Officer.

**Certain Lands to be excluded from an EMA Notice**

An additional section has been inserted into the EMA notice provisions to uphold the procedural requirements of section 23 of the *Mining Act 1978*, which requires consent of relevant Ministers to carry out mining on public reserves or Commonwealth land. This consent to access reserved lands is given based on specific activities and may be subject to particular conditions.

Therefore these areas need to be excluded from notices, as;

- Firstly, the Minister may need to provide the relevant consent prior to the application being assessed;
- Secondly, the Department needs to verify that the activity proposed in an application and the activity for which consent has been granted are the same and that any relevant conditions will be met.

In the case that an application cannot be made through an EMA notice, it can still be made through a Programme of Work.

**Further consultation**

The activities that constitute an 'eligible mining activity' and standard conditions that would apply to these activities will be prescribed in the Mining Regulations 1981 and will be subject to a separate consultation process post the passage of these amendments. DMIRS will also undertake consultation on the gazettal of areas in which EMA notices will be excluded.

**Exemptions from Native Vegetation Clearing Permits**

The Low Impact Notification framework (now 'EMA notice') does not alter the existing exemptions under the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. These exemptions will still apply.

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| **1** | **APLA** | The Bill has benefits for the small-scale miner and prospector. Additionally, the Bill does nothing for the current "double handling" of the MRF/AER/MCP Revisions requirements that currently exist. | The Department continues to be committed to streamlining processes and improving efficiency across Government, including across the multiple reporting obligations for mining industry. The Department will undertake consultation on the all supporting guidelines or policies associated with these amendments. |
| **2** | **AMEC** | AMEC appreciates the opportunity to provide a submission to the Department of Mining, Industry Relations and Safety (DMIRS) on the Streamlining (Mining Amendment) Bill 2021. AMEC strongly supports the intent of the Streamlining (Mining Amendment) Bill 2021 and its speedy introduction into Parliament. The proposed amendments include measures that AMEC has advocated for over a number of years, to streamline the legislative framework Industry complies with. The following comments are intended to assist the Department in finalising the draft Bill, ready for introduction. The State Government's 2021 election commitment of additional funding for the Department's digital transformation was an important acknowledgement of the importance of our industry, and the need for streamlined processes. AMEC welcomes opportunities to continue engaging with DMIRS to develop and pragmatically implement streamlining measures, to support the continued growth of our sector.<br><br>AMEC has called for the implementation of the Streamlining Bill, particularly amendments to introduce Low Impact Notifications (LIN) for several years, and over multiple terms of Government. The simplification and increased efficiency of approvals processes is expected to deliver significant benefits to Industry. These benefits are widespread and delivered to the Western Australian community in the form of increased job opportunities, skilled workers, and royalties which are used to develop new schools, roads, and hospitals. As continues to be acknowledged by State and Federal Governments, Western Australia's minerals sector cushioned our economy from the worldwide COVID-19 induced recession. Now is opportune timing to implement amendments that will deliver long-term benefits to support economic recovery, and beyond.<br><br>The ability of our Industry to capitalise on heightened demand for Western Australian minerals, to strengthen our competitive edge, is contingent on a regulatory framework and policy settings that support development, by providing the certainty required to attract investment. This ability will be strengthened by regulatory reforms which reduce red tape and costly delays, to lower the cost of doing business in the State. The introduction of head powers, and subsequent detail in the Regulations of these changes, should deliver improvements to Industry's regulatory framework. | Support noted. |

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| | | AMEC requests continued engagement as the reforms are consulted on and introduced, to ensure there are no unintended consequences for Industry. Currently, the lengthy delays for approvals processes and administrative burden created through duplicative requirements are disproportionately costly to our Industry. In order to attract investment to Western Australia, a stable and efficient regulatory framework, which reduces red tape and the costs required to operate, will be seen as an incentive by investors and project developers.<br><br>AMEC appreciates the Department's prioritisation of our recommendation to introduce streamlining measures to the approvals process. The LIN, single Approvals Statement and enabling administrative changes are anticipated to result in considerable benefits for Industry and regulators. The reduction of administrative burden should allow regulators to address approvals in a timely manner, without compromising the rigour of our legislative framework. We continue to offer to facilitate workshops between Government and our members, to identify and develop improvements to the Department's approvals processes, and Industry's compliance. As the Bill progresses and consultation on the Regulations continues, AMEC looks forward to continued engagement with the Department so we can sooner realise the benefits of streamlining measures. | |
| **3** | **AMEC** | Scope of regulation/interaction with other regulators<br><br>The proposed inclusion of a definition of 'environment' to be included in the Mining Act during the 2015 consultation process was not supported by AMEC. We were pleased that this consideration did not arise for the current Streamline Bill. There are sufficient existing legislative frameworks which manage environmental impacts and risks, and the interpretation of environment can be broad and create ambiguity. To prevent the occurrence of duplicative requirements and widespread implications that could arise from the potential inclusion in the Mining Act of a definition of environment, industry will continue to support it remaining separate. Should the powers of environmental inspectors be open for consultation at any stage after this process, industry requests an opportunity for consultation. | Support noted. Any future amendments would be subject to a separate consultation process. |
| **4** | **AusIMM** | This submission is in response to the consultation currently being undertaken by the Government of Western Australia (Government) through the Department of Mines, Industry Regulation and Safety (Department) regarding the proposed Streamlining (Mining Amendment) Bill 2021 (Bill). | Support noted. Please see responses to the specific recommendations in the relevant sections below.<br><br>The Department will undertake consultation on the proposed Regulations (including identifying eligible activities for notifications and standard conditions attached to these activities) and any supporting guidelines or policies associated with these amendments. |

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| | | AusIMM commend the Government and Department for the consultative basis on which they have progressed the proposed reforms under the Bill. The Government's approach reflects a willingness to seek and listen to the best advice, and progress reforms on an open, well-informed basis. This is consistent with the Government's approach across a range of streamlining reforms.<br><br>The Bill proposes amendments to the *Mining Act 1978 (WA)* (Mining Act) to streamline mine approvals processes and regulations, with three key changes flagged:<br>• Low impact notifications: The Bill proposes an alternative authorisation pathway for low impact activities, according to which automatic authorisation is available for certain mechanised ground disturbances<br>• Mining development and closure proposals: The Bill introduces a single Mine Development and Closure Proposal to replace the currently separate Mining Proposal and Mine Closure Plan.<br>• Approvals statements: A new Approvals Statement will identify conditions, closure outcomes, review dates and related information, maintained on an ongoing basis.<br>AusIMM support the objectives of the reforms contained in the Bill. A streamlined and efficient approvals framework, which avoids unnecessary duplication, will support the continuing contributions made by the Western Australia resources sector professionals to the state's economy and community. Indeed, recent record-breaking sales results across iron ore, gold and nickel commodities are reminders of the sector's important role in the broader Australian economy, particularly as the nation navigates the COVID-19 pandemic.<br><br>Well-calibrated regulatory streamlining also enables consistent decision-making; balances social, economic and environmental considerations; and strengthens community confidence and support for the sector. In this respect, AusIMM emphasise that the resources approvals framework must balance efficiency with due rigour and risk-responsiveness.<br><br>Our Western Australian members account for more than 30% of AusIMM's overall membership, and includes leaders working across health, safety, mine closure, rehabilitation, environmental science and a range of other fields. With the benefit of this expertise, AusIMM offer the following recommendations regarding the Bill.<br><br>*Key recommendations*<br>AusIMM offer in-principle support for the reforms proposed in the Bill. We emphasise that much of the substance of the reforms, and their effective implementation, is contingent on the clarity and rigour of subordinate legislation and associated regulatory guidance. | The Department continues to be committed to streamlining processes and improving efficiency across Government, whilst retaining robust regulatory outcomes. |

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| | | With this, AusIMM recommend:<br>1. That the Department undertake extensive consultation on the proposed regulations, guidelines and operational policies that will accompany the amended Mining Act.<br>2. That these regulations and related material clarify the:<br>a. Definition and scope of 'low impact activities.'<br>b. Standard conditions attached to 'low impact activities.'<br>c. Mechanisms by which cumulative impacts will be monitored and managed.<br>d. Criteria for assessment of 'significant mineralisation', which should reflect the JORC and VALMIN Codes.<br>e. Process for monitoring outcomes against Mine Development and Closure Proposals.<br>f. Process for monitoring outcomes and emerging risks in relation to Mine Closure Plans.<br>g. Scope and content of Approvals Statements.<br>3. That the Department continue to coordinate streamlining reforms across different regulatory frameworks and levels of government.<br><br>AusIMM repeat our view that the proposed reforms to the Mining Act are broadly well-calibrated and will provide an adequate primary legislative framework for balancing streamlined approvals with due rigour and regulatory oversight. Effectively implementation is contingent on the underlying regulatory provisions and operational processes adopted by the Department.<br><br>As the peak body for people in resources, AusIMM believe the Department must harness the skills and technical expertise of resources professionals across a range of disciplines to work through these further technical questions. We welcome further engagement with the Department as it progresses this substantial reform package. | |
| **5** | **AusIMM** | Coordination across government and regulatory frameworks<br><br>The Western Australian Government has identified economic recovery and improved transparency as key drivers for the streamlined approvals reform. AusIMM support this objective. Our view is that structural reforms to reduce unnecessary duplication must be coordinated across all levels of government (local, state and federal) as well as the distinct legislative frameworks covering mining, environmental regulation, natural resource management and land use more broadly. | The Department continues to be committed to streamlining processes and improving efficiency across Government, whilst retaining a robust regulatory regime. |

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| | | AusIMM recommend that local governments, the Western Australian and Federal Governments continue to coordinate initiatives to streamline regulation on an ongoing basis, balancing the imperatives to minimise burden while retaining robust regulatory outcomes and providing enduring economic and social value for the community. AusIMM invite further engagement with the Department as it progresses to the further and, indeed, more technically rigorous stages of these reforms. We repeat our thanks to the Government for the opportunity to provide our initial advice on the Bill. | |
| **6** | **Cement and Concrete Aggregates Association (CCAA)** | CCAA welcomes efforts to streamline administrative processes and reduce unnecessary red tape. The draft Bill certainly makes steps down this path, but CCAA remains seriously concerned regarding several aspects of the Bill where suggested improvements would deliver even greater benefits.<br><br>CCAA believes that the Streamlining (Mining Act) Amendment Bill 2021 can consolidate and rationalise the environmental management of mining in Western Australia if properly developed and implemented. CCAA also notes the potential for serious imposts on both industry and DMIRS if the legislation does not address the issues as outlined. Western Australia's regulatory environment needs to be internationally competitive to continue to attract capital to invest into the state to ensure a sustainable and competitive heavy construction materials industry. This in turn facilitates Western Australia's productivity, housing affordability and lower infrastructure costs. There is no more important time than now for the construction sector, supported by an efficient heavy construction materials supply chain, to provide the engine to build Western Australia's post COVID economy and create jobs. | Noted. |
| **7** | **Chamber of Minerals and Energy of WA (CME)** | CME supports the reduction and simplification of government regulation. CME broadly supports the Bill's proposed objectives. However, CME does not believe the Bill (in its current form) will achieve streamlining outcomes in the priority or immediacy required. CME does not believe the current Bill is ambitious. CME considers the majority of outcomes proposed by the Bill can be achieved through alternative and more immediate means including administrative, policy, cultural, or procedural reforms.<br><br>This is supported by independent legal opinion. Based on the above, CME recommends:<br>• The remit for reform be broadened to include opportunities for meaningful and more immediate streamlining of approvals under the Mining Act.<br>• DMIRS undertake proper consultation to prioritise effective, practicable, and targeted streamlining opportunities (administrative and legislative) leveraging off the extensive identification of key issues and opportunities already undertaken under Streamline WA, including express removal of duplication with other legislation. | The Streamlining (Mining Amendment) Bill 2021 is intended to make legislative amendments to the *Mining Act 1978* to streamline decision-making and improve efficiency for the application and assessment of environmental approvals to support economic recovery following COVID-19. These amendments are proposed alongside other initiatives such as Streamline WA, and core business activities which seek to improve efficiencies across Government. |

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| | | Where streamlining outcomes cannot be achieved solely through administrative and non-legislative reforms, CME supports legislative amendments only to the extent that they do not impede broader regulatory streamlining objectives. This submission is structured to respond to the objectives of the Bill, provide feedback on issues identified with the proposed drafting (as released for consultation) and recommends alternative options to deliver more immediate streamlining benefits. | |
| **8** | **CME** | Immediate streamlining outcomes needed to support strong economic growth<br><br>CME understands the Bill was prepared and drafted in the context of stimulating post-COVID recovery of the resources sector, and despite the Bill's "streamlining" title, the Bill is not directly linked to Streamline WA or intended to deliver on the 'whole of government' reform objectives of the Streamline WA program. In CME's view, the narrow scope of the Bill represents a missed opportunity for immediate, achievable streamlining benefits and high economic value regulatory reform.<br><br>The proposed reforms demonstrate a fundamental disconnect with the key issues experienced by industry users of the Mining Act. Prior to the Bill's circulation for public comment, no preliminary consultation was undertaken with industry to explore the key issues and priority reform opportunities through either an issues or discussion paper, nor has a decision regulatory impact statement been released to support the reforms proposed in the Bill. This lack of prioritised needs assessment and prior issues identification – including not leveraging relevant outputs from the government's Streamline WA program – makes it challenging to discern whether the proposed changes represent the 'highest and best' allocation of the government's discretionary reform effort. While this narrow approach may have been justifiable during the initial phase of the COVID pandemic, given the stronger than anticipated economic recovery over the past 12 months and optimistic forward outlook, it is fundamentally important that any streamlining initiative prioritises the most effective, practicable, and targeted reforms – through both legislative and more immediate administrative (non-legislative) means. Consistent with the government's Streamline WA initiative, proposed streamlining reforms by agencies should "accelerate action to streamline approval processes" and relevantly "address whole of government issues" by considering the corresponding jurisdiction and impact to other regulatory agencies – which is of particular relevance now given recent and parallel reforms in progress – namely the Environmental Protection Act 1986 (EP Act) (WA). | The Streamlining (Mining Amendment) Bill 2021 is intended to make legislative amendments to the *Mining Act 1978* to streamline decision-making and improve efficiency for the application and assessment of environmental approvals to support economic recovery following COVID-19. These amendments are proposed alongside other initiatives such as Streamline WA, and core business activities which seek to improve efficiencies more broadly across Government.<br><br>It is further noted, many of the proposed amendments are the result of extensive ongoing engagement with the mining industry over many years as part of DMIRS ongoing commitment to engage with industry.<br><br>Prior to public release of the Consultation Draft and supporting Information Sheet, DMIRS undertook initial consultation with peak industry bodies to provide an overview of the key concepts to be delivered by the Streamlining (Mining Amendment) Bill 2021. DMIRS acknowledges CME's position requesting broader reform for mining environmental approvals and is supportive of improving the mining environmental approvals framework across Government. |

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| | | The Commonwealth Environmental Protection and Biodiversity Conservation Act 1999, Aboriginal Cultural Heritage Bill (WA) and other 'streamlining' bills initially proposed as COVID recovery initiatives. Effective streamlining reforms have never been more acutely needed to deliver meaningful efficiencies to both industry and government in the near-term to capitalise on WA's strong economic position and to secure the $140 billion pipeline of mining and resources projects on the horizon. In the main, the outcomes of the reforms proposed in the Bill are not anticipated to be realised until at least two years into the future – which is simply too late. Furthermore, as referenced above, it is not possible to discern the potential streamlining benefit of some of the reforms as the thresholds for low impact notifications (for example) are not proposed to be defined until years later – again, that is simply too late.<br><br>Accelerating assessments and associated approvals through meaningful streamlining initiatives will enable industry to capitalise on higher than expected commodity prices, yielding higher government revenue, before prices cyclically moderate overtime. For example:<br><br>• Royalties generated from WA resource exports represents 29% of gross state revenue (2019-20).<br><br>• The resources sector is the largest contributor to payroll tax of all industries in WA.<br><br>• The resources sector is a material contributor to transfer duty revenue via high value commercial transactions of mining tenements.<br><br>• A price movement of $US1 per tonne for iron ore will impact the State's annual royalty income by around $81 million.<br><br>CME strongly recommends the remit for reform be broadened to include opportunities for meaningful and more immediate streamlining of the Mining Act including express removal of duplication with other legislation. Reforms should be proposed cognizant of the wider Streamline WA remit, including other government reform initiatives in progress for other relevant legislation and, if necessary, staged so that real benefits to government and industry can be achieved progressively during this current term of government. | |

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| **9** | **Department of Water and Environmental Regulation (DWER)** | The Department of Mines, Industry Regulation and Safety has had ongoing discussions with DWER through Streamline WA and our views have been provided through these channels. I understand that the Environmental Protection Authority is also intending to make a separate submission on the Bill.<br><br>DWER supports the improved approvals efficiency and reduced compliance and administration costs provided by the Bill. The introduction of low impact notifications and a single approvals statement for mining operations are appropriate and proportionate.<br><br>Please ensure communications materials on the Bill note that the proposed changes do not apply to environmental approvals under other statutes, and that references to Approvals Statements do not refer to Ministerial Statements issued under the *Environmental Protection Act 1986*. | Support noted. The communication materials and information sessions have set the scope of the amendments as streamlining decision-making and improving efficiency for the application and assessment of environmental applications under the *Mining Act 1978*. |
| **10** | **Eastern Goldfields and Prospectors Association (EGPA)** | EGPA welcome the efforts of DMIRS to streamline procedures and approvals, as we are in an age where simple situations and operations are now made to be extraordinarily complex. These induced complexities are wreaking havoc, by slowing productivity for existing participants, but also creating barrier entries for many wishing to enter the mining and exploration sector. We trust all relevant govt departments will join with the DMIRS in reducing all unnecessary impediments to exploration and mining activities.<br><br>Grouping tenements into a "Development Project" can and is done already without changes to the mining act -for example Sunrise Dam Project would have many tenements attached to that project for example, and that project is functioning fine. | Support noted. The Department continues to be committed to streamlining processes and improving efficiency across Government, whilst retaining a robust regulatory regime. |
| **11** | **EGPA** | The Low Impact Notification (LIN), using artificial intelligence (AI), may possibly be useful for certain situations, but when we asked DMIRS "what number of hectares or what works can actually be done with a LIN. we are told by DMIRS "you will have to trust us as it is yet to be prescribed" The answer should be 10 hectares. The AI system needs to be very user friendly as it is proposed by the DMIRS that paper applications will not be accepted for the LIN. Some of our members have difficulty using on-line remote systems and that is why DMIRS have previously given us assurance that the paper-based hard copy option will continue for POW-P and Small Mining Proposal applications | The activities that constitute a 'low impact activity' and standard conditions that would apply will be prescribed in the Mining Regulations 1981 and will be subject to a separate consultation process post the passage of these amendments.<br><br>The existing hard-copy Programme of Work-Prospecting form will be retained. A Small Mining Development and Closure Proposal (similar to the current Small Mining Operations Mining Proposal and Mine Closure Plan) will be made available and the structure and content requirements of this would be subject to further detailed consultation as part of developing supporting Regulations and guidance. |

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| **12** | **Environment Institute of Australia and New Zealand Inc. (EIANZ)** | Whilst EIANZ-WA acknowledges that DMIRS has undertaken consultation since the release of the draft Bill, we feel that comprehensive consultation prior to drafting the Bill would have been beneficial and enabled the opinions of proponents, industry groups and practitioners to be considered and incorporated into the amendments.<br><br>Given the current Mining Proposal and Mine Closure Plan Statutory Guidelines were only finalised in 2020, EIANZ-WA would like further information on how DMIRS has determined that the proposed amendments offer a more efficient and streamlined process. Our concern is that there is potential for yet another set of guidelines to be released which do not necessarily provide a real streamlining opportunity, but rather make some minor administrative adjustments to the existing system. | These amendments were proposed as part of a response to support economic recovery following COVID-19. The amendments were also presented as a streamlining measure and discussed with stakeholders under StreamlineWA.<br><br>The proposed changes aim to streamline decision-making, improve efficiency for the application and assessment of environmental approvals, and target information required during the assessment process as part of a risk and outcomes-based approach to decision-making. The development of the 2020 Statutory Guidelines were initiated to clarify the mandatory requirements of a mining proposal and mine closure plan to ensure certainty regarding the validity of applications. It is expected that the new MDCP would allow DMIRS to further refine and improve guidance on the information requirements for mining applications. |
| **13** | **Environmental Protection Authority (EPA)** | The Environmental Protection Authority (EPA) welcomes and generally supports the Department of Mines, Industry Regulation and Safety's (DMIRS) Streamlining (Mining Amendment) Bill 2021. The EPA understands interactions between applications and approvals under both the *Mining Act 1978* (Mining Act) and *Environmental Protection Act 1986* (EP Act) has been central to the Streamlining WA Project. It is important that each agency has clearly defined scope and responsibilities which will avoid duplication in assessments and regulation for the mining industry. The EPA is supportive of this principle and the associated intent of the Bill that it:<br><br>• allows DMIRS to redirect the focus of its available resources to the higher risk issues;<br><br>• ensures full information capture; and<br><br>• ensures appropriate regulation of those activities, without jeopardising environmental outcomes.<br><br>As the EP Act prevails over the Mining Act to the extent of any inconsistency, the EPA recommends consideration be given of any risk of any inconsistency arising as a result of the Bill. This would ensure that there are not unforeseen legal consequences which then cause confusion and delay and undermine the intent of the Bill. The EPA notes that for some mining proposals, proponents are required to provide biodiversity offsets as part of EP Act approvals. Greenhouse gas emissions offsets are also being considered for large scale emitters. The EPA recommends consideration be given to alerting miners to the risk of potential inconsistency (and potential benefits and synergies) of these offsets proposals with mining. | Support noted.<br><br>DMIRS acknowledges the primacy of the EP Act, and has ensured there is no inconsistency between the Acts that may cause unforeseen consequences. |

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| | | In summary, the EPA is supportive of the Streamlining (Mining Amendment) Bill 2021 in context of the considerations outlined in this letter. The EPA believes that the Bill is an opportunity to further improve a proponent's awareness of the importance of delivering against environmental objectives and achieving streamlining improvements. I would welcome an opportunity to meet the appropriate representatives of DMIRS to further discuss opportunities to achieve these improvements. | |
| **14** | **Fortescue Metals Group (FMG)** | **PART ONE**<br>1. Industry Issues<br>Fortescue supports working towards improved regulatory processes however there are a number of long-standing issues which the Bill does not appear to address including:<br>• Fundamental duplication of environmental assessment and compliance under the *Mining Act and Environmental Protection Act 1986* (WA) (EP Act).<br>• Inability of Mining Proposals prepared under *DMIRS 2020 Guidelines* to adequately manage changing land uses (activity type) within the approval granted. Unlike a gold mine or other more static land use development, iron ore mines benefit from, and indeed require, flexibility within their approvals that allow development of a location from mine road, through drilling and other ancillary uses to eventual mine pit development and adjustment during the life of mine. Mining Proposals are simply not able to manage this type of dynamic and flexible mining. For example, Mining Proposal revisions are required each time a portion of land is required for different land uses such as for the purpose of a road, for the purpose of grade control drilling, for the purpose of a mining pit, for the purpose of rock or topsoil storage and eventually for the purpose of mine closure activities. At present, the only method available for mine operators operating under the *Mining Act* is to submit a Mining Proposal and then follow up by submitting numerous revisions to the Mining Proposal and managing subsequent complicated compliance reporting. By comparison, those iron ore mine operators with State Agreements have the ability to submit a single Detailed Proposal encompassing all of the above activities. They are not required to seek revisions or approval from the regulator of these changes.<br>• Additional burden for *Mining Act* operations versus those developed under State Agreements. See comparison detailed in above point.<br>• Lengthy and open-ended approval timeframes versus a defined timeframe in State Agreements. Acknowledging the department seeks to achieve KPIs for approvals timeframes however the interpretation of KPIs can differ from the user experience. | The Streamlining (Mining Amendment) Bill 2021 makes legislative amendments to the *Mining Act 1978* to streamline decision-making and improve efficiency for the application and assessment of environmental approvals under that Act to support economic recovery following COVID-19. These amendments are proposed alongside other initiatives such as Streamline WA, and core business activities which seek to improve efficiencies across Government.<br><br>DMIRS will be continuing consultation with the EPA and DWER regarding interactions of assessments under the Mining Act and the EP Act. DMIRS has always operated under the primacy of the EP Act and endeavoured to recognise the legislative obligations already existing on activities that it is assessing. The removal of the statutory guidelines by the Bill provides further flexibility to do this, and provides further opportunities to further formalise this. DMIRS will consult on this position and embed it in the supporting non-statutory guidelines as part of implementing the Bill.<br><br>DMIRS acknowledges the current administrative burden and inefficiency unintentionally created by the current activity category method in Mining Proposals submitted under Part 1 of the Statutory Guidelines. The content of Mining Development and Closure Proposals will be subject to a separate stakeholder consultation process in developing the non-statutory guidelines.<br><br>The implementation of the Approvals Statement via legislative amendments will enable increased flexibility of activities within envelopes across multiple tenements. By having clear approval of activity types across multiple tenements with outcome based conditions, this is intended to minimise ongoing approval requirements. This is supported by the development and use of outcomes based conditions rather than prescriptive tenement conditions.<br><br>Thanks for your feedback on other administrative matters, which DMIRS will consider as part of ongoing business improvement. |

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| | | Priority issues of duplication and the additional burden the Bill will mean for Mining Act mines compared to those developed under State Agreements are discussed in greater detail further in the following sections with a number of streamlining opportunities identified by Fortescue as recommendations. | Approvals reporting – as you note, DMIRS has a 30 business day target for decisions on Mining Proposals. The Environmental Applications Administrative Procedures identify that this is not the end to end timeframe and the reasons for stop-the-clock events. DMIRS is also looking to include end to end timeframe information in its external reporting to improve transparency of actual timeframes. Furthermore, DMIRS is also progressing system enhancements to its online application tracking (EARS Online), which it intends to showcase to industry in the coming months. |
| **15** | **FMG** | **1.1 Duplication Reform through the Streamlining (Mining Amendment) Bill 2021**<br><br>Fortescue understands that the Bill has been drafted in the context of stimulating post-COVID recovery of the resources sector with the intent for government agencies to streamline approval processes and address whole of government issues through reducing duplication between regulatory agencies. We note that government has other reforms underway in relation to the following Acts and Bill and this means the legislative regime for resource sector approvals is subject to significant change over the coming years. This reform of legislation needs to be considered holistically given the interplay between approvals under the following legislation:<br><br>• *Environmental Protection Act 1986 (EP Act),*<br>• *Mining Act 1978,*<br>• *Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act); and*<br>• *Aboriginal Cultural Heritage Bill (WA) 2020.*<br><br>Based on the understanding that the intent of the Bill is to reduce intra and intergovernmental duplication, Fortescue is of the opinion the Bill **does not** address this issue and instead presents more duplication in environmental and aboriginal heritage regulation. Fortescue considers duplication of approvals could be addressed and has presented a number of examples where duplications with other legislation exists now or under the proposed Bill as follows:<br><br>• Environmental approvals are assessed under Part IV of the *EP Act*, where the Environmental Protection Authority assesses the proposal and provides recommendations for Ministerial approval. The approval is granted pursuant to conditions within a Ministerial Statement. Mining Proposal assessments often duplicate the Part IV assessments for Projects that have been referred and "assessed1" under the *EP Act.* The Bill should work to minimise duplication of information presented in assessments under Part IV and the Mining Proposals. | The Streamlining (Mining Amendment) Bill 2021 is intended to make legislative amendments to the *Mining Act 1978* to streamline decision-making and improve efficiency for the application and assessment of environmental approvals to support economic recovery following COVID-19. These amendments are proposed alongside other initiatives such as Streamline WA, and core business activities which seek to improve efficiencies across Government.<br><br>As far as practicable, DMIRS will not duplicate assessment of any component of an activity that also requires approval from another regulatory agency.<br><br>DMIRS' current process is that a mining proposal must contain a list of all relevant environmental approvals and statutory requirements that will affect the environmental management of the mining project so that DMIRS' assessment can focus on those environmental issues not already covered by other approvals or legislation. Some environmental approvals only apply during specific phases (e.g. while a site is operating), and may not be directly applicable during other phases such as mine closure or care and maintenance. In these circumstances, specific risk identification and treatment will be required to ensure all phases are appropriately addressed in the mining proposal and mine closure plan.<br><br>Should the amendments pass, it is still intended that DMIRS will not duplicate assessment of aspects regulated or conditioned by another regulatory agency.<br><br>Whilst noting DMIRS is not the lead agency for regulating Aboriginal heritage matter, DMIRS does consider heritage to a limited extent for the following reasons: |

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| | | • The Bill proposes an Approvals Statement with conditions. It is also unclear in the Bill how these conditions will align with conditions in the Part IV assessment. It is possible two conditions sets may cause conflicting condition outcomes which may result in non-compliances under both the *EP Act* and *Mining Act*. The Bill should make clear that conditions are consistent with the Part IV approvals in terms of outcomes or that the *EP Act* conditions have primacy over any conflicting conditions in an Approvals Statement.<br>• Aboriginal heritage is assessed under the *Aboriginal Heritage Act 1972* (AH Act) and the EP Act within the scope of the Social Surroundings key environmental factor. The Bill should make clear that the *Mining Act* does not include the assessment of Aboriginal heritage, whether the EPA has assessed the factor or not, as it is direct duplication of the responsibility given to other agencies under other Acts.<br>• The Bill should consider the reforms that will be delivered under the *Aboriginal Cultural Heritage Bill 2020* which will replace the AH Act and is intended to manage impacts to cultural values and heritage sites. With the passage of the *Aboriginal Cultural Heritage Bill 2020*, DMIRS should no longer regulate Aboriginal heritage removing the current duplication.<br>• Mine safety is assessed through a Project Management Plan (PMP) under the *Mines Safety and Inspection Act 1994,* which is also regulated by DMIRS. The PMP outlines all the key mining and miscellaneous activities presented in Mining Proposals. The Bill should work to minimise the mine safety information required to be presented in a Mining Proposal for mining activities given this information is also presented in PMPs.<br>• Industry regulation of environmental emissions and discharges are regulated under Part V of the *EP Act*. The Bill does not attempt to reduce the existing duplication of regulation between Mining Proposals and Licences and Works Approvals under the Part V of the *EP Act*.<br>Further to the above, the Bill does not address the industry's need for parallel processing to meet resource sector project schedules. Fortescue has continuously made requests for Mining Proposals to be assessed in parallel to Part IV assessments, management plans as conditions of Ministerial Statement approvals and s18 consents under the *Aboriginal Heritage Act 1972*. | 1. **To ensure that DMIRS meets the obligations of the *Environmental Protection Act 1986*.** Section 38(5) of the EP Act requires that any decision-making authority (including DMIRS) receiving an application that appears to be environmentally significant, to refer that application to the EPA. As a result, DMIRS needs to be satisfied that a proposal is not environmentally significant before it may decide not to refer the proposal to the EPA. In response to this, by ensuring that the *Aboriginal Heritage Act 1972* approvals were obtained, DMIRS could be satisfied that referral to the EPA was not required and approval under the *Mining Act 1978* could occur.<br>2. **To safeguard to ensure compliance with the *Aboriginal Heritage Act 1972*;** and<br>3. **To Minimise workload impacts** as approving applications which require later amendment as a result of failing to obtain approvals under the AH Act will require approvals to be re-assessed by DMIRS.<br>DMIRS has been working with DPLH to review this practice with the intent to ensure that Aboriginal heritage matters are appropriately considered in the approval process without unnecessarily delaying the *Mining Act 1978* approvals, and to reflect any changes in the heritage legislative framework.<br>The intent of a mining proposal is to describe the proposed operations and allow assessment against DMIRS' environmental objectives. This differs from the requirements of the Project Management Plan (PMP) under the Mines Safety and Inspection Act 1994 which describes the safety aspects of the proposal.<br>The scope of the amendments are streamlining decision-making and improving efficiency for the application and assessment of environmental applications under the *Mining Act 1978*. Outside the scope of the proposed amendments, DMIRS is working with DWER to reduce duplication and clarify roles and responsibilities for environmental assessments.<br>DMIRS undertakes parallel processing as per its Environmental Applications Administrative Procedures. |

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| **16** | **FMG** | **1.2 Mining Act versus State Agreement Approval Pathways**<br>Mines approved under various State Agreement Acts provide a competitive and commercial advantage over mines regulated under the *Mining Act.* Approval processes associated with the *Mining Act* present a key risk to Fortescue due to the repetitive, prescriptive and onerous nature of regulated requirements. Under the *Mining Act*, the approvals pathway is overly prescriptive and lacks flexibility to support adaption to change in a reasonable and timely manner. Fortescue often incurs significant additional costs and lost time to move a key mining activity or to include low impact activities not listed for that tenement in a mining proposal.<br>By way of example, currently at the Fortescue mine, a delay to a Mining Proposal approval will cost Fortescue ***(commercial in confidence figures removed)*** based on a 12-month delay contingency plan we have been forced to put in place. The Mining Proposal was submitted on 19 January 2021 and is still under assessment six months later. In an effort to mitigate the impact of the delay and unknown Mining Proposal approval timeframe, Fortescue has amended the mine plan and as a result needs to increase groundwater abstraction at another location. The cost of the new bore field is ***(commercial in confidence figures removed)***, comprising additional abstraction bores, conveyance pipelines and the discharge/reinjection bore locations. Such additional secondary approvals create additional workload for both Fortescue staff and DMIRS assessment officers. Had ***In Confidence*** been a State Agreement mine site, this ***(commercial in confidence figures removed)*** activity would not have required a State Agreement Detailed Proposal and Fortescue would not have incurred this cost. Mining Proposals require a reiteration with every land use change and as a result, Fortescue has 23 approved Mining Proposals with more planned as operations continue. | DMIRS receives these comments with thanks, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS acknowledges that the data provided illustrates the need to review the efficiency of current Mining Act processes, and this feedback will be considered as part of ongoing business improvement programs. |
| **17** | **FMG** | **1.3 Key Recommendations**<br>Legislative amendments introduce an inherent legal risk and should be considered only where absolutely necessary to address fundamental issues of jurisdiction and/or achieve improvements impracticable through non-legislative reforms.<br>To achieve reform of processes in line with the intent of the *Streamline WA* program, being to "accelerate action to streamline approval processes" and "address whole of government issues", DMIRS administrative, policy and procedural reforms should be prioritised in the first instance to address key issues with assessments and approvals under the *Mining Act* ahead of legislative reform. We suggest the following reforms where legislative reform is not required or not required in the first instance:<br>• Remove regulatory duplication and clarify environmental jurisdiction (short term administrative amendments and in turn legislation reform). | *Regulatory Duplication*<br>As far as practicable, DMIRS will not duplicate assessment of any component of an activity that also requires approval from another regulatory agency. DMIRS' current process is that a mining proposal must contain a list of all relevant environmental approvals and statutory requirements that will affect the environmental management of the mining project so that DMIRS' assessment can focus on those environmental issues not already covered by other approvals or legislation. Some environmental approvals only apply during specific phases (e.g. while a site is operating), and may not be directly applicable during other phases such as mine closure or care and maintenance. In these circumstances, specific risk identification and treatment will be required to ensure all phases are appropriately addressed in the mining proposal and mine closure plan. |

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| | | • DMIRS commonly requests for baseline environmental biological and physical information to be included in Mining Proposals. Fortescue does not consider this to be relevant for Mining Proposals as this information is assessed under Part IV of the *EP Act*. Fortescue requests for this requirement be removed or allow the Mining Proposal to reference the Environmental Review document presented and approved under Part IV of the *EP Act*. The current process is a direct duplication of writing and assessment effort. Part IV of the *EP Act* is the primary regulator of Environmental Impact Assessment (EIA) and Fortescue considers that the need for a unique set of environmental baseline information in Mining Proposals should be removed due to direct duplication.<br>• Fortescue recommends DMIRS provide an exemption for the provision of a mine closure plan as part of the Mining Proposal when mine closure outcomes have been requested by the EPA as part of the environmental scoping document and assessed under Part IV of the *EP Act*.<br>• Corresponding minor Act amendments would be required.<br>• Embed low impact activity thresholds and the manner in which these must be conducted in standard tenement conditions applied on grant of tenure (short-term by policy and administrative guidance).<br>• Allow for consolidation of clearing limits within an approved mining envelope (in which tenement boundaries dissolve) within an Approvals Statement. For example, a request for an expansion of a pit across a tenement boundary should be considered approved, when there is adequate hectares allowance under the approval and the clearing is within the Approval Statement boundary.<br>• Allow for activities to proceed if they are listed as a tenement purpose without requiring them to be specifically written into a Mining Proposal. For example, Fortescue requests the flexibility to construct a workshop or install a bore field without a Mining Proposal revision in the case that these activities are already an approved purpose for that tenement.<br>• Adopt outcome-based tenement conditions for the operative or material aspects of mining operations only, rather than referencing application documents in their entirety and creating unnecessary compliance ambiguity (short-term policy and administrative reform).<br>• Remove requirement for arbitrary 3-yearly review of Mine Closure Plans. | Should the amendments pass, it is still intended that DMIRS will not duplicate assessment of aspects regulated or conditioned by another regulatory agency.<br><br>*Low Impact Activities*<br>DMIRS notes that the system suggested in the feedback is similar to a 'code compliant' approach in other Australian jurisdictions, in which activities can occur from grant of tenure with no further authorisation with the onus on the proponent to undertake those activities in accordance with standard conditions.<br><br>This model was considered however was not progressed for several reasons, including the interactions of the WA regulatory regime with Native Vegetation Clearing Permits exemptions, and ensuring the Department is notified of all mining activity occurring in the State. In addition, the use of the online Programme of Work spatial system aids proponents at all levels of the industry to identify where their activity may interact with other high value land uses prior to the commencement of their activity.<br><br>The proposed Low Impact Notification framework is intended to cater to all level of industry. In some instances, tenement holders may not have software allowing for them to easily ensure compliance with the thresholds and conditions. DMIRS proposed that this would be systemised similar to the existing Programme of Work-Spatial system so that an applicant would have certainty that the proposed activities met the relevant requirements. It is important that all levels of industry are supported in ensuring this certainty as non-compliance with the requirements of the Act can ultimately result in forfeiture of a tenement.<br><br>The proposed Low Impact Notification framework would allow for automated assessment and authorisation for low impact activities which is intended to significantly reduce the time taken for authorisation of those activities.<br>**Consolidation of Clearing Limits within an Approved Mining Envelope**<br><br>An Approvals Statement would record:<br>a.An approval given to an activity<br>b. Any conditions attached to the approval<br>c. Any relevant information<br>d. The closure outcomes<br>e. The MCP lodgement date |

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| | | • Further to the above, it is recommended that DMIRS comment on proposals as part of the Part IV process, along with the other key regulators (DWER, DPLH, etc) so they understand the primary environmental outcomes to assist with their Mining Proposal assessment. This process allows for DMIRS to participate in the assessment requirements under the respective Acts and reduce duplication. DMIRS should not be the lead agency to convene a multi-agency review, as this role is already undertaken at the primary approvals stage.<br>• 1.3 Fortescue requests for DMIRS to allow and respect proponents to manage their obligations under different Acts and agencies and allow approvals to run in parallel assessment without DMIRS oversight. This would be a significant streamlining initiative | The date by which the MCP must be lodged; andIn the instance where the Approvals Statement included the specific activity on the tenements it was to be undertaken on and hectare allowance for that activity, a further MDCP would not be required.<br>It is also intended that the format of the information to be provided to DMIRS to inform a change to the Approvals Statement (for example, to add new activities) would be commensurate to the scope and scale of the change.<br>*Allow for activities to proceed if they are listed as a tenement purpose*<br>The potential environmental impact of those activities would still need to be assessed through an MDCP as the environmental impact assessment is not done as part of assigning purposes to the tenement. The approvals statement would provide flexibility within a disturbance envelope.<br>*Outcomes-based conditions*<br>The Approvals Statement would adopt outcome-based tenement conditions.<br>*Remove 3 yearly review*<br>The 3 year timeframe has been removed and it is intended that the review date would be set on a case-by-case basis.<br>*Comment on Proposals from Other Agencies*<br>DMIRS continues to work with other agencies to provide comment on proposals as requested. Further detail on this is provided in DMIRS' Environmental Applications Administrative Procedures. This also includes details on DMIRS' approach to parallel processing. |
| **18** | **FMG** | **CONCLUSION**<br>A further assessment of the proposed Bill is presented at Attachment 1<br>Attachment 2 sets out Fortescue view that use of State Agreements over *Mining Act* for complex mine development would be a valuable streamline initiative for WA.<br>Fortescue thanks DMIRS for the opportunity to provide input into the proposed amendments to the Mining Act 1978 and looks forward to continuing the consultation process with DMIRS to work towards streamlining approvals within the resource industry. | Noted. |

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| **19** | **Lindsay Stephens of Landform Research** | In general the Bill is fine. The comments I make relate to the endless changes that are being required for Mining Proposals and Mine Closure Plans. When the Guidelines first came out for comment and during use of them, industry has made numerous comments on issues and minor changes but they were not incorporated into the Guidelines and now the Guidelines are actually being changed more in line with industry submissions. In the meantime industry and DMIRS have hundreds of pages of Guidelines for MP and MCP. Those documents have all had to be rewritten on every submission, even if nothing has changed on the tenements, creating very large workloads that neither industry nor DMIRS can deal with.<br><br>I am actually debating whether to update documents as the guidelines are likely? To change again in 2021? | The review of the Statutory Guidelines for Mining Proposals and Statutory Guidelines for Mine Closure Plans is outside the scope of these amendments however DMIRS notes this feedback for any future reviews of the Guidelines. Any future revisions to the Statutory Guidelines would be subject to a separate consultation process. |
| **20** | **Northern Star Resources** | Overall, Northern Star is supportive of the purpose of simplifying the activity approval processes for the resources sector to ensure robust assessment and approval of projects is undertaken in the most efficient way possible. Northern Star supports the submission from the Chamber of Minerals and Energy and its key messages and recommendations. | Support noted. |
| **21** | **Iluka Resources** | The Bill/Mining Act needs to expressly delineate those aspects of environmental matters that will be managed under the Mining Act so there is no confusion in relation to operations under approvals or exemptions under the Environmental Protection Act. | The scope of the amendments are streamlining decision-making and improving efficiency for the application and assessment of environmental applications under the Mining Act 1978. Outside the scope of the proposed amendments, DMIRS is working with DWER to reduce duplication and clarify roles and responsibilities for environmental assessments. |

| Administrative Updates | | | |
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| **1** | **AMEC** | It is important that as stated in the Streamline Bill documentation, the fees identified are not new fees, and the intent not to introduce new fees is upheld. The cost to Industry to operate in Western Australia, partially due to the many layers of regulatory red tape, are comparatively high. These can be a barrier to entry. To address these barriers, continued collaboration between Industry and Government is required, so we can identify and carefully implement measures such as the LIN, which should allow vital mineral exploration activity to proceed. The sooner we make more mineral discoveries, the sooner the Western Australian community can reap the benefits associated with developing mining projects. | The Bill relocates the existing provisions regarding the ability to prescribe a lodgement fee. There are currently no fees prescribed and there is no intention to prescribe a fee as part of drafting supporting regulations to the Streamlining (Mining Amendment) Bill 2021. |

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| **2** | **EGPA** | Looks ok apart from S.46 (aa) (iia) where the provision for POW (and Mining Proposals in another section) fees are removed and reinserted elsewhere at S103AI (3) (b) and at S103AM (3) (b). These fees were not introduced following our meeting with the mines minister, of the day, and our suggestion these proposed fees not be introduced and instead the mining tenement rents be increased to compensate. This is what transpired. Therefore, the ability to charge fees, on this reason alone, should be remove entirely from the Mining Act.<br><br>The ability for DMIRS to prescribe fees, for a lodgement of POW and Mining Development applications is a very sore point, this was quietly slipped into the Mining act quite a while ago and we got a taste of the proposed medicine, being approximately $690 for POW applications and $6,900 for mining proposals. Our sector fought hard and successfully stopped at parliament those prescribed fees circa 2016. The EGPA had a round table meeting with the mines minister back in 2016 and it was suggested by us that the impending fees be discarded in favour of an increase in tenement rents. This is what happened and so there is no need to continue to have the provision for charging the said fees in the Mining Act. The provision for being able to charge the said fees should be deleted entirely from the Act. Implementing and charging of the said fees is a disincentive to investment and further penalising those who wish to do physical work on tenements which is not the way to go. Furthermore, why charge fees for tenement holders seeking approvals who are by law required to expend funds on their ground and is especially difficult for many proponents at the front end where there is no income stream and then for DMIRS to charge fees is not right at all. | The Bill relocates the existing provisions regarding the ability to prescribe a lodgement fee. There are currently no fees prescribed and there is no intention to prescribe a fee as part of drafting supporting regulations to the Streamlining (Mining Amendment) Bill 2021. |
| **3** | **APLA** | Why have the "Conditions attached to every prospecting licence" provisions that are to be applied to all other categories of licences and leases not been applied to SPLs? i.e *(b) that all holes, pits, trenches and other disturbances to the 25 surface of the land the subject of the prospecting licence 26 that are made while prospecting, and that are likely to 27 endanger the safety of any person or animal, will be 28 filled in or otherwise made safe; 29*<br><br>*(c) that all necessary steps are taken by the holder to 30 prevent damage or injury to property or livestock 31 whether resulting from fire, the presence of dogs, the 32*<br><br>*discharge of firearms, the use of vehicles or any other 1 cause. 2*<br><br>*[Section 46 amended: No. 69 of 1981 s. 16; No. 100 of 1985 3 s. 32; No. 57 of 1997 s. 89(1); No. 39 of 2004 s. 6(1); No. 51 of „„„„*<br><br>Section 69E has not been updated. However, Section 69D has been updated. | For the purposes of the Mining Act, a special prospecting licence functions as if it were a prospecting licence. See section 70(9) of the Mining Act which states that the provisions of the Act relating to a prospecting licence, or a mine lease apply to a special prospecting licence or mining lease granted pursuant to this section.<br><br>Section 69D was updated with administrative amendments. |

| Administrative Updates | | | |
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| **4** | **AusIMM** | *Significant mineralisation and the meaning of 'reasonable prospects'*<br>The Bill proposes a series of amendments to Part IV Division 3 of the Mining Act, which deals with mining leases. These include various consequential amendments to remove redundant definitions, while retaining the concept of 'significant mineralisation' to frame the operation of the Division.<br>**AusIMM support** the definition of 'significant mineralisation' contained in the Bill, noting it is broadly consistent with the definition previously in place. Under this definition, significant mineralisation exists where the exploration results for land subject to a mining lease application indicate a 'reasonable prospect of minerals being obtained by mining operations on the land'.<br>**AusIMM recommend** the Department provide further guidance on what constitutes a 'reasonable prospect' of 'significant mineralisation'. These are complex technical questions that demand significant technical and professional expertise, and which must align with broader technical frameworks such as the JORC and VALMIN Codes. Such clarity and alignment are vital to guide decision-making and ensure transparency for both the industry and the community.<br>**AusIMM recommend** the Department collaborate with lead professionals in the sector to develop clear, plain English guidelines on the operation of the Mining Act (as amended by the Bill), including in relation to the meaning of 'significant mineralisation'.<br>**AusIMM query** deletion of the requirement for the Director-General to ensure guidelines regarding the operation of the Division are made publicly available. We encourage the Department to publish all guidelines publicly, as this is vital in enabling community understanding, awareness and support for mining operations in the state. | The Bill has not proposed any amendments to the current framework for assessment of 'significant mineralisation'. The amendments in section 70(O) are administrative in nature and relocate the definitions for a mine closure plan, remove the definition of a mining proposal and relevant mining proposal (now replaced by mining development and closure proposal) and remove the use of Guidelines as this information will now be detailed in the Regulations. |
| **5** | **AusIMM** | *Consequential amendments*<br>**AusIMM support** amendments to sections Part IV Divisions 1, 2, and 2A of the Mining Act, which facilitate automatic approval and conditioning for prospecting, exploration and retention licenses. We note many of these amendments are consequential on the more substantive amendments introduced elsewhere in the Act, and defer to our earlier comments on these provisions.<br>**AusIMM support** the amendments proposed to Division 3 to replace references to Mining Proposals with reference to Mine Development and Closure Proposals.<br>**AusIMM support** the continued reliance upon the Joint Ore Reserve Committee (JORC) Code as the basis for mineralisation reports to produced and referenced in assessing applications. | Support noted. |
| **6** | **CME** | s90(4) This section clarifies that a reference to a mining lease is to be taken to also be a reference to a general purpose lease for sections 103AK and 103AR. However, this does not capture the sections relevant to the issue of an Approvals Statement. Should reforms to introduce the concept of Approvals Statements proceed, CME recommends adding references to sections 103AN, 103AO, 103AQ, and 103AS. | DMIRS has reviewed the additional references in section 90(4) and updated these to reflect procedural requirements. Only the relevant conditions on general purposes leases were referenced at section 90(4) (103AK and 103AR). Some procedural sections refer to 'mining tenements' and therefore sufficiently broad to capture general purpose leases. |

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| **7** | **APLA** | At Sect 103AG reference is made to State Agreement. APLA asks how any environmental controls are applied to these operations if this Streamlining Bill does not apply to them. | Section 103AG – Conditions attached to mining leases does not relate to those mining leases granted or held pursuant to a Government agreement (unless the agreement provides). These projects are still managed under the particular State Agreement and the relevant provisions of the *Environmental Protection Act 1986*. |
| **8** | **CME** | The proposed new Part IVAA corrupts the fundamental tenure focused structure of the Mining Act. While it is proposed that the amendments capture all conditions of approval in a separate section for ease of reference, this is not reflected in the current drafting. Some, not all, conditions of approval are captured under new Part IVAA, all of which are subsequently split by approval type and tenure type anyway. Overall, this is an unnecessary, overly complicated, and unhelpful restructuring of the Act. For example, prospectors will now be required to refer to multiple sections of the Act (including the new Part IVAA) to identify all parts relevant to a Prospecting Licence (and similar for all other tenements). CME does not support the restructuring of the Mining Act and recommends the current structure of the Mining Act be maintained with conditions of approval captured under relevant tenure types. For all comments below, where CME supports the proposed amendment, this should be done within the existing structure of the Mining Act. | The new Part IVAA consolidates activity approvals into one Part and is displayed so that the Divisions can be read by activity type. |
| **9** | **Lindsay Stephens of Landform Research** | There are some very simple changes that can be made that will greatly assist everybody. The MP and MCP guidelines must be brought into line so that a table from one can be used directly in the other. For example the risk tables are different. There are endless different names for exactly the same things. These need rationalisation or DMIRS need to accept any of the terms. One problem is that there has been changes in the nomenclature between the compulsory documents and over time leading to significant confusion and repetition- in the area of aims and objectives which are all similar and could be consolidated. The items are much the same, they are inconsistent between documents. I suggest that the Australian Standards be reviewed to show the simple progression from identification of risk, setting parameters and objectives and measuring compliance against those objectives.<br><br>The MCP 2015 has objectives, indicative completion criteria (not necessary) completion criteria and measurement tool.<br><br>The MCP Statutory Guidelines 2020 uses the terms to closure outcomes, completion criteria and commitments.<br><br>The MP 2016 Guidelines uses environmental outcomes and closure outcomes, performance criteria, environmental objectives and DMP Objectives.<br><br>The MP 2020 Statutory Guidelines use environmental outcomes, performance criteria, environmental objectives, and environmental factor. | The review of the Statutory Guidelines for Mining Proposals and Statutory Guidelines for Mine Closure Plans is outside the scope of these amendments; however, DMIRS notes this feedback for any future reviews of the Guidelines. Any future revisions to the Statutory Guidelines would be subject to a separate consultation process.<br><br>DMIRS has an overarching Environmental Objectives Policy for Mining (2020) which sets out DMIRS' environmental objectives for decision making under the *Mining Act 1978*. This differs from the EPA Objectives as these relate to regulation under the *Environmental Protection Act 1986*.<br><br>When the Statutory Guidelines for Mining Proposals and Statutory Guidelines for Mine Closure Plans were reviewed and published in 2020, the language in these was updated for consistency and to align "environmental outcomes" with "closure outcomes" (rather than the previous "closure objectives" in a Mine Closure Plan) for consistency and to differentiate these from DMIRS' objectives as described above. DMIRS agrees that measurements will be assessed against the performance criteria in a mining proposal and completion criteria in a mine closure plan. These will demonstrate how the environmental outcomes and closure outcomes are being met. |

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| | | Outcomes and objectives are the same thing. One is something achieved and the other something to achieve. You only need one, not both. What are we going to have? Why do we have DMIRS Objectives when there are EPA Objectives? There are many items that do not fit into the DMIRS Objectives. For example where does heritage protection fit? Proponents have to consider heritage and yet there is nowhere to address it under the DMIRS Objectives. I suggest the relevant criteria of the EPA Objectives are used. Simplify, no need to re-invent anything. If the EPA Objectives were used they would fit with Part (IV) assessments under the EP Act 1986. Now a company has to address the same environmental management using different forms, terms and layout for the EPA and DMIRS. Objectives and Aims are the same and really are much the same as Completion Criteria. Certainly Completion Criteria are needed and they are either achieved or not. Everything could be simplified. Normal Risk Assessments, could simply have Objectives or outcomes, completion criteria.<br><br>In the end you really do not need Performance Criteria. Take the example of a car. You are not allowed to speed. The objective is to get to the destination safely without speeding or breaking any rules. Or the outcome is to get to the same destination safely without speeding or breaking any rules. What Industry is being asked is to tell DMIRS how you are not going to break the rules, where do you slow down, when do you apply the brake using measures of how many times the brake has been applied, how many speed traps have been used for monitoring etc etc etc. We all drive cars with one simple rule. The same applies to mining. I support the used of a set of outcomes, criteria or conditions on a tenement or operation. Sound familiar? DMIRS also has conditions. In planning Law and Decisions the conditions prevail and the Management Plan applies if there are no specific conditions. The EPA uses the same principles and so should DMIRS. It would be great (well in reality it must be) if there was consistency in that the same terms used in the Mining Proposals are also used in the Mine Closure Plans. That is allow proponents some flexibility. A single word can result I a rejection of a document at times.<br><br>Now I notice that the Environmental Regulatory Strategy also uses the term Regulatory objective and measurement criteria, Efficiency evaluation, Input Indicator, Output indicator. Intermediate outcome indicator, output indicator. None of those terms are necessary. All these are basically the same items and process. A review of the Australian Standards for example will show that many items are an un-necessary intrusion possible due to many people from diverse backgrounds writing the documentation. You either achieve something or you do not. For example new terms do not have to be introduced but should simply say, "have the performance criteria, completion criteria been achieved". They are the legally binding and conditioned performance indicators so that they are the items that need to be assessed against. Introducing six new terms does not actually asses the legally binding criteria compliance. The measurements will be assessed against the performance and completion criteria from the MP and MCP. That for example removes 6 new made up items that have no purpose or meaning. I am very happy to sit down with DMIRS to explain and help them. | The Environmental Regulatory Strategy refers to regulatory objective and measurement criteria in the context of DMIRS' regulation as opposed to an outcome or performance criteria in a Mining Proposal |

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| **10** | **AMEC** | The introduction of the LIN through this Bill is a long-term advocacy item AMEC is pleased to see introduced. However, the details of what activities will be permitted under LIN, to be determined by the ensuing Regulations, will be an important next step in the consultation process. Our understanding is that activities with low impact on non-environmentally sensitive areas will meet the remit required to qualify for LIN, but we request consultation on the list of activities that will be permitted, as a priority. The definition of 'impact' for the purpose of this activity, will be critical. In order for the intent of the Streamlining Bill to be met, there is need for risk-based regulation, where the level of potential risk posed is commensurate with the rigour of the approvals process. For low impact activities, where the risks are minimal and can be managed effectively, a straightforward and minimally intensive approvals process is welcomed. As Industry experiences a substantial period of growth and more applications are submitted to the Department, the timely approval of activities critical to the further development of minerals projects, is imperative. However, as experienced in recent years, the introduction of cost recovery across approvals processes in Western Australia, has not resulted in faster processes, and Industry still faces lengthy delays.<br><br>During the briefings provided by DMIRS it was announced consideration was being given to a phased rollout of LIN for prospecting and exploration. Is there further detail as to this consideration available to Industry? A further question arising from the briefing related to excluded areas. It has not yet been advised how those excluded areas will be communicated to Industry, and what will happen in the event there are modifications or changes to such areas? | Details of the eligible activities, standard conditions and excluded areas for the Notification Framework to be subject to further consultation<br><br>The Department will undertake separate consultation on the proposed Regulations including identifying eligible activities, standard conditions attached to these activities and areas excluded from notification and any supporting guidelines or policies associated with these amendments. |
| **11** | **APLA** | Our primary concerns are the specific details of allowed footprint area and the scope of vegetative clearing. While APLA supports the concept, we need to see the Regs applicable to the LIN before wholehearted support is given. | |
| **12** | **AusIMM** | The Bill proposes to introduce new provisions at Part IVAA Divisions 2 and 3 of the Mining Act, setting out the approvals process for low impact activities carried out under prospecting, exploring and retention licences, as well as mining and miscellaneous leases. AusIMM support the broad objective to streamline approvals and simplify conditions for low impact activities. AusIMM support the proposed Ministerial discretion under the Mining Act to exclude certain areas as inappropriate for low impact activities. We see this discretion as critical in maintaining appropriate Ministerial oversight of the Mining Act and its implementation.<br><br>AusIMM take the view that greater clarity is required before more detailed advice can be offered regarding the proposed provisions, particularly given activities will be prescribed as 'low impact' via regulation rather than through primary legislation. We understand the Department intends to undertake further public consultation on these regulations, separately to the Mining Act amendments. | |

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| | | AusIMM recommend the Department address, as part of this consultation, the precise scope and definition of 'low impact activities', the standards conditions attached to their approval (in detail), and the areas proposed to be excluded from the low impact approvals process. AusIMM recommend that the regulatory provisions outlining 'low impact activities' account for the cumulative impact of disturbances across multiple individual sites and land uses. An extensive corpus of social, environmental, land use planning and mining industry expertise has developed over recent years, highlighting the need to consider the cumulative impacts when making decisions about land use planning. Effectively managing cumulative impacts is a vital ingredient in driving community support for the sector. Communities expect governments and project proponents to manage the cumulative social, economic and environmental impacts of mining across the whole project life cycle. Cumulative impacts and whole-of-life planning are therefore vital considerations in delivering on the economic, social and environmental goals of streamlined regulation. A clear eye to cumulative impacts is also critical for the proper synthesis of mining, land use, environmental and planning regulation in the state. | Details of the eligible activities, standard conditions and excluded areas for the Notification Framework to be subject to further consultation<br><br>The Department will undertake separate consultation on the proposed Regulations including identifying eligible activities, standard conditions attached to these activities and areas excluded from notification and any supporting guidelines or policies associated with these amendments." |
| **13** | **CCAA** | CCAA supports in principle the introduction of Low Impact Notification for the automated authorisation of low impact activities, subject to standard conditions. However, more clarity on what is considered a Low Impact Activity and where that activity may occur are important to realize any reduction in red tape and deliver real benefits to industry and DMIRS. This should be considered via a risk-based approach on the environmental impact of the activity. | |
| **14** | **CME** | Under the Bill, DMIRS propose to introduce Low Impact Notifications (LIN). CME understands the objective of introducing LIN is to automate authorisation of low-risk activities to enable DMIRS assessing staff to focus on higher risk activities. In principle, CME supports the objective to streamline authorisation of low-risk activities and the redirection of DMIRS resources to the proactive and efficient delivery of core business and regulating industry in the management of higher risk activities. However, the proposed LIN framework does not include detail on the application and approvals process, eligibility criteria or thresholds for low impact activities, or proposed standard conditions of approval. Detail of the process is proposed to be prescribed in regulations and subject to future public consultation – but only after the Bill achieved passage through Parliament. Without this clarity, or even a basic indication of where thresholds are likely to be, it is not possible to reasonably discern the regulatory streamlining effectiveness of the proposal and potential benefits to both DMIRS and industry. | |
| **15** | **DWER** | I would also like to request that DWER be involved in the subsequent consultation process for the development of the definition of 'low impact activity', which is to be prescribed in the Mining Regulations 1981. | |
| **16** | **EGPA** | We are only halfway supportive because we have yet to see any details. This is despite the idea of the LIN system being proposed back in 2015 in the Mining Amendment Bill 2015. We were told how good it would be for our sector, but no details have yet been forthcoming from the DMIRS. | |

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| | | A suggestion to help the LIN system work because it is low impact, should not have any impediments in areas that have been and are known mining activity areas. Such areas are, for example, S57(4) (being known mineralised areas where no exploration licences are permitted). This methodology could/should also apply to the whole Eastern Goldfields district where the best and most appropriate land use is mining. | Details of the eligible activities, standard conditions and excluded areas for the Notification Framework to be subject to further consultation<br><br>The Department will undertake separate consultation on the proposed Regulations including identifying eligible activities, standard conditions attached to these activities and areas excluded from notification and any supporting guidelines or policies associated with these amendments." |
| **17** | **EPA** | It is understood that the criteria that define a low-impact activity for the purposes of the Mining Act, will be prescribed in the Mining Regulations 1981 and will be subject to a separate consultation process post the passage of the Bill. The EPA look forward to this consultation. | |
| **18** | **EIANZ** | As noted in the Consultation Summary, the Bill introduces an alternative pathway of authorisation for mechanised ground disturbance, a Low Impact Notification (LIN). No guidance has been provided on what activities would be assessed and approved under a LIN and therefore, it is difficult to comment on whether this amendment will result in streamlining and more importantly, whether it compromises environmental protection. EIANZ-WA seeks clarification on whether the definition of a low impact activity aligns with the Proposed Low Impact Activity Framework and Exploration Draft policy position paper (DMIRS 2015) or if a new set of criteria are being released, this should be provided as part of the consultation process. | |
| **19** | **CME** | To date, the examples provided verbally at DMIRS public consultation briefing sessions have included hand augering and soil sampling – neither of which involves clearing or use of mechanised equipment. If these are likely to be the types of activities that will be eligible for a LIN following gazettal of necessary regulations, it is highly unlikely that CME members will be able to utilise this function, despite CME members regularly undertaking activities what would be considered "low impact" exploration activities. Additionally, its implied new approval requirements will be necessary for activities that can currently be conducted without a PoW. | The Low Impact Notification framework would operate in addition to the current Programme of Work and Mining Proposal framework. Consistent with this, the activities to be prescribed would be activities using machinery to disturb the surface of the land (see section 103AB of the Consultation Draft Bill). Activities such as hand augering and soil sampling, which do not involve mechanised equipment, were provided as examples which currently do not require environmental assessment under a Programme of Work. Activities that do not involve the use of mechanised equipment will would be able to continue to occur without a notification or Programme of Work. |
| **20** | **AMEC** | Additionally, Low Impact Activities are also expected to be introduced through the Aboriginal Cultural Heritage Bill 2020 (ACH Bill). They will have a very similar name, despite pertaining to two distinct Acts, and two very different applications. To mitigate confusion, AMEC recommends that the LIN introduced under the Mining Act Amendment Bill is renamed "Low Impact Notification (LIN) – Environmental".<br><br>The Consultation that is currently ongoing with the Aboriginal Cultural Heritage Bill in Western Australia, also includes a low impact activity table. AMEC requests clarification that the two interpretations of what will constitute low impact activity, for the sake of each separate piece of legislation, will be clearly delineated from each other. There will likely be confusion as to the application of these low impact activities, arising from concern they could be used interchangeably. | Interaction with Aboriginal Cultural Heritage legislation<br><br>DMIRS acknowledges that the Aboriginal Cultural Heritage Bill (ACH Bill) is also proposing amendments that use the term 'low impact'. Acknowledging the potential for confusion between the proposed ACH Bill amendments and the Streamlining (Mining Amendment) Bill 2021, DMIRS has changed the name of the "low-impact activities" to "eligible activities". |

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| | | AMEC recommends clearly identifying the low impact activities permitted for LIN by DMIRS, are clearly communicated as being for this intended purpose only. AMEC understands that low impact activities in relation to the environment and low impact activities in relation to Aboriginal Cultural Heritage have very different requirements. Mining and exploration companies fully understand and accept they will need to comply with both legislative requirements. | Interaction with Aboriginal Cultural Heritage legislation<br>DMIRS acknowledges that the Aboriginal Cultural Heritage Bill (ACH Bill) is also proposing amendments that use the term 'low impact'. Acknowledging the potential for confusion between the proposed ACH Bill amendments and the Streamlining (Mining Amendment) Bill 2021, DMIRS has changed the name of the "low-impact activities" to "eligible activities". |
| **21** | **CCA** | Low Impact activity terminology should avoid confusion with the proposed activities in the Aboriginal Cultural Heritage regulations. CCAA recommends additional industry consultation on the definition of low-impact activity and the standard conditions of their authorisation in developing subsequent Regulations and guidelines, and the methods of submission. | |
| **22** | **CME** | Interaction with clearing regulations<br>Consult with the Department of Water and Environmental Regulation (DWER) as a matter of priority and obtain specific legal advice as to the application of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (EP Clearing Regulations) and whether amendments may be required to expressly clarify the intent to retain the exemption for an "authority under the Mining Act 1978".<br><br>Critically, it is also not possible to discern how LINs would interact with the EP Clearing Regulations as it is not clear whether there would be an approval of LINs and how that aligns with the EP Clearing Regulations requirement for 'an authority under the Mining Act'. The interlinkage between the proposed amendments and the EP Act and, in particular, the EP Clearing Regulations, is key. CME has been advised by DMIRS that no specific consultation has occurred with DWER in respect of the draft Bill, including regarding the interaction of the proposed amendments and the existing clearing exemptions (regulation 5, items 20 and 25 of the EP Clearing Regulations) related to authorities under the Mining Act. This presents a significant risk for industry. CME strongly recommends DMIRS consults with DWER as a matter of priority (and prior to introducing any Bill into Parliament) including obtaining specific legal advice as to the application of the EP Clearing Regulations and whether amendments may be required to expressly clarify the intent to retain the exemption for an "authority under the Mining Act 1978". CME supports a framework which facilitates the expedited approval of lower risk activities and the use of standard, pre-known approval conditions. However, the proposed amendments do not address key issues experienced by industry under the current approval regime, including the lack of flexibility of approval systems, and the inaccuracy of data systems (i.e. Landgate) used to inform assessment of PoW and Mining Proposal applications.<br><br>The following key issues experienced by the resources industry as users of the Mining Act are long-standing and well-known. Opportunities currently exist for addressing these issues through administrative and other non-legislative reforms to deliver efficiency gains for industry and regulators in the near-term. | Interaction with Clearing Regulations<br>DMIRS has confirmed that giving notice of an eligible activity meets the requirement of authority under the *Mining Act 1978* therefore does not alter the existing exemptions under the Environmental Protection (Clearing Native Title Vegetation) Regulations 2004. |

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| | | CME are committed to working with government to deliver on mutual reform objectives and realise material regulatory streamlining benefits, while maintaining good environmental outcomes, as efficiently as possible. The maintenance of current exemptions under the EP Clearing Regulations is a critical consideration for any reform of approvals under the Mining Act. Under regulation 5 of the EP Clearing Regulations, exemptions exist for clearing approvals for low impact activities (item 20) and prospecting or exploration clearing (item 25). | |
| **23** | **CME** | Standard tenement conditions for low impact activity exemptions<br><br>Where the regulation of clearing for exploration and mining activities is to apply under the Mining Act, amendments to existing processes are needed to improve regulatory efficiency and reduce administrative burden for proponents and DMIRS. Establishing thresholds and controls for low impact activities in standardised tenement conditions applied on grant of tenure is a simple and effective means to regulate low impact activities. Standard tenement conditions can be developed which limit activities and the manner in which they are to be conducted to that determined to be 'low impact' (potentially including a total clearing limit) within a development envelope (i.e. mining tenement). Standard tenement conditions already exist requiring annual compliance reporting, under which the total area cleared against the approved clearing limit can be reported by the proponent and compliance against all thresholds and related conditions would be confirmed. This approach puts the onus on the proponent to ensure their activities comply with their tenement conditions, a current standard process. Should a proponent wish to precautionarily refer their proposed activities for confirmation of compliance with the set thresholds and controls for low-risk activities, this could be achieved through an automated LIN process. This automated approval process would not require legislative amendments to implement, merely changes to administrative procedures and IT systems. Further, should a proponent need to undertake activities beyond that authorised as low-risk, low impact activities, the proponent would need to apply for and obtain a PoW as per current requirements. This tiered approach is illustrated in Figure 1.<br><br>This tiered, risk-based, and outcome-focused approach would provide proponents with the necessary flexibility to manage disturbance and activities within approved limits to optimise operational efficiency and ensure good environmental outcomes. This approach also significantly reduces the administrative burden on regulators and proponents by enabling exploration licences to be usable immediately upon grant for those low risk activities that fall below specified thresholds and hence can be managed through well understood controls and standard conditions. Consistent with the objectives of the Mining Act, this would promote the productive use and active turnover of exploration-related tenements (use it or lose it model). Similar models have proven highly effective in other comparable jurisdictions. | Please note that a low impact activity notification would not be an exemption from approval, but an alternative authorisation pathway than a Programme of Work or Mining Development and Closure Proposal.<br><br>DMIRS notes that the system suggested in the feedback is similar to a 'code compliant' approach in other Australian jurisdictions, in which activities can occur from grant of tenure with no further authorisation with the onus on the proponent to undertake those activities in accordance with standard conditions. DMIRS does not believe such a framework can be implemented under the Mining Act without any legislative change, given sections 46(aa), 63(aa) and 82(1)(ca) require submission and approval of a programme of work for the use of ground disturbing equipment.<br><br>This model was considered however was not progressed for several reasons, including safeguarding with the existing Native Vegetation Clearing Permits exemptions regime, and ensuring the Department is notified of all mining activity occurring in the State. In addition, the use of the online Programme of Work spatial system aids proponents at all levels of the industry to identify where their activity may interact with other high value land uses prior to the commencement of their activity.<br><br>The proposed Notification framework would allow for automated assessment and authorisation for eligible activities which is intended to significantly reduce the time taken for authorisation of those activities. |

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| | | For example, in Queensland, where disturbance to native vegetation is regulated under the Environmental Protection Act 1994 (Qld), a 'standard' Environmental Authority can be instantly granted, providing an automatic approval for low risk activities with a set of pre-determined, standard conditions. These conditions provide the low impact thresholds for the approved activity, and include for example:<br><br>A total clearing limit.<br><br>Exclusion of activities from within environmentally sensitive areas<br><br>Restriction of activities required to be approved under higher-order approvals (such as a PoW or Mining Proposal as relevant in WA).<br><br>CME recommends managing low impact activities and the manner in which they must be conducted via standardised tenement conditions to enable tenements to be usable at grant and promote productive use and rapid turnover of land. | |
| **24** | **Department of Biodiversity, Conservation and Attractions (DBCA)** | In general terms, DBCA supports the proposed amendments on the basis that streamlining of approval for low risk activities and clarifying approval requirements is likely to lead to greater resource availability for assessment of higher risk proposals, and clearer documentation of approval requirements and outcomes. The development of the proposed regulations setting out the specific circumstances and geographic areas within which the low impact notification system will operate is a significant issue for DBCA. Noting DBCA's statutory role in conserving biodiversity under the *Biodiversity Conservation Act 2016*, my staff would appreciate being closely involved in their development.<br><br>Given the express intention that low impact notifications will not be subject to officer assessment, DBCA does not support the application of the proposed low impact provisions to reserved lands or water vested in the Conservation and Parks Commission and managed under *Conservation and Land Management Act 1984* (CALM Act). Areas of reserve land managed under the CALM Act are significant for conservation, protection of biodiversity, protection of Aboriginal culture and heritage and supporting tourism and public recreation in Western Australia. DBCA contends it is important that activities in these areas are assessed by government officers in a precautionary manner, to ensure that values are protected and cumulative impacts of disturbance are minimized. Although the provision of documentation regarding proposed activities at the consent stage provides a sound basis for defining and managing mineral exploration activities that are acceptable to be undertaken in reserves affected by mining tenements, there will be an ongoing need for officers to confirm that activity proposals in reserves following consent are consistent with the terms of that consent.<br><br>DBCA is of the view that the Bill itself (rather than regulations or additions to any proposed register) should make direct provision for exclusion of CALM Act reserve lands (and probably other public reserve lands subject to Part III Division 2 of the Act) from the effects and operation of the low impact activity provisions. | Areas excluded from notifications<br><br>The Department will undertake separate consultation on the proposed Regulations including specific consultation with DBCA on the areas excluded from notifications. DMIRS acknowledges DBCA's key role in conserving biodiversity and managing reserve land managed under the CALM Act. It is proposed that the areas to be excluded be detailed Gazetted and published in a Register to allow the flexibility to add additional areas as required. It is DMIRS' intent to exclude Reserved Lands as this approach is consistent with section 23 of the *Mining Act 1978* which prevents mining on or under that land otherwise than in accordance with the relevant consent of the Minister for Mines and Petroleum. |

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| **25** | **EPA** | The EPA understands the new 'Low Impact Notification' stream of authorisation is intended to allow impact notification and automated authorisation of low impact activities. This will remove the time it takes for an application to await and undergo assessment, while ensuring information is captured and appropriate regulation of those activities is achieved. The EPA notes this will replace some Programme of Works notifications.<br><br>It is considered that there is an opportunity for the automated process to be an early indicator to mining proponents of the need to consider applicable provisions of the EP Act, including:<br><br>The potential for mining proposals to be referred to the EPA<br><br>The need to understand the constraints of investigative works which can be carried out if a proposal is being assessed by the EPA<br><br>The need to understand the requirement to obtain consent before commencing minor or preliminary works if a proposal is being assessed by the EPA. | Eligible activities and referrals with other agencies<br><br>These aspects will be considered during the development of any supporting guidance to support submission of these applications. |
| **26** | **Iluka Resources** | The idea of LINs has merit and any reduction in approval administration and time is welcome but it is difficult to delineate the level of support afforded to LINs when the Department has provided only very limited information to Industry and has delayed the release or consideration of pertinent points (such as when a LIN might be applied) until after the Bill has been approved. In consideration of implementing changes proposed consideration should be made to:<br><br>Remove the need to specify equipment from a PoW<br><br>Update Department IT systems and procedures to automate assessment of low risk activities and implement a risk-based approach to LINs and PoW-S applications;<br><br>Incorporate a mechanism that permits amendments to LIN and POW applications (as opposed to withdrawing and re-lodging them).<br><br>DMIRS to provide published technical guidance for PoWs/LINs to ensure clarity of requirements for both LINs and standard PoWs. The guidance should address (at a minimum):<br><br>LIN/PoW application requirements (details of what plans, data and details are needed to support the application);<br><br>Navigation of the LIN/PoW spatial system – how to lodge the application online on EARS;<br><br>An assessment checklist for LIN/PoW applicants to manage their application; and<br><br>Rehabilitation guidance clarifying timeframes, triggers and the process for applying for an extension of time for completion. | PoW spatial system<br><br>The proposed Notification framework would allow for automated assessment and authorisation for eligible activities through a system similar to the current Programme of Work-Spatial system. DMIRS acknowledges the additional feedback on administration of Programmes of Work and this will be considered as part of ongoing business improvement programs. |

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| **27** | **EGPA** | As stated before the LIN system of application would have to be very user friendly to enable non computer literate people to access it. For example, the online POW-P system is abysmal., even for people who can use computers. | PoW spatial system<br>Similar to the rollout of Programme of Work-Spatial, training and support for the use of the system would be available. In addition, the existing hardcopy Programme of Work-Prospecting form will be retained. |
| **28** | **Lindsay Stephens of Landform Research** | The low impact system has potential and should be good, but please let's have a system that can be printed, easily filled in and read and not like the disaster of the Small Mine Closure Plan which cannot be printed and can only be viewed in small pieces of text. As it cannot be printed I do not believe it will be a legal document. Surely DMIRS knew the problems before they launched the system? Or was it not checked?<br>Some low impact items may actually have something significant and therefore for some sort of checklist would be useful for proponents to tick. | PoW spatial system<br>It is intended that the Notification system would function similarly to DMIRS' online Programme of Work – Spatial system which targets questions throughout the application based on what is proposed, rather than as a hardcopy PDF or Word form. These will not be able to be accepted as a hardcopy form. A summary of the application and associated conditions will be available once the application has been submitted. |

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| **29** | **APLA** | At Section 103AI (3) mention is made (again) of prescribed assessment fees. APLA is totally opposed to the introduction of any fees for Env Assessment whether it be POW, MDCP or LIN. | The Bill relocates the existing provisions regarding the ability to prescribe a lodgement fee. There are currently no fees prescribed and there is no intention to prescribe a fee as part of these amendments. |
| **30** | **AusIMM** | Programmes of work<br>**AusIMM support** the clear conditions articulated throughout Part IVAA Division 3 that low-impact activities cannot commence until either notice of the relevant activity is provided to the Department (in the prescribed form), or the activity is included in an approved Programme of Work. AusIMM note, and support, the provisions clarifying the extension of this authorisation to activities identified in the relevant Mine Development and Closure Proposal.<br>AusIMM repeat our caution that the Department must maintain robust oversight of low-impact activities carried out under these provisions, given the potential significance of cumulative impacts and the fact that low-impact activities will commence after notification (rather than formal approval).<br>**AusIMM support** provisions in Part IVAA Division 3 clarifying that those activities that do not meet the 'low impact' definition can only be carried out if they form part of an approved Programme of Work, and only then in the manner articulated in that Programme of Work.<br>**AusIMM support** the proposed process for lodging and assessing Programmes of Work, including provisions enabling lodgement of substitute programmes where the Department or Minister requires further information. This will allow approvals processes to progress efficiently, particularly where decision-makers require further information from prospective land users. | Support noted. |

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| **31** | **CME** | s103AI(5) The proposed amendment limits variations to PoW applications prior to assessment / approval by the Minister. It is unclear the key issue this new provision is intended to address. The ability to amend PoW applications prior to assessment / approval is necessary to enable proponents the flexibility to update the application to incorporate new information received from infield surveys, or to reflect last minute changes to work plans. It may also be necessary to address the assessment recommendations and advice of DMIRS staff. Therefore, limiting this ability may unnecessarily increase system administration and impost on proponents through requiring withdrawal and resubmission. Additionally, a key current concern of industry is that PoWs are not able to be edited (at all) once submitted due to limitations with the IT system. This current situation requires significant re-work due to the need to withdraw and re-submit PoWs which, although not currently required by the Act, may become embedded under the proposed Act amendments. This withdrawal and resubmission process also results in resetting the clock and extends actual assessment timeframes for proponents. Proponents need some flexibility to incorporate new information and make adjustments (including adjustments to adopt DMIRS advice as part of the assessment process). CME requests further clarification on this proposal. | The proposed amendments formalise the flexibility to submit substitute documents during the assessment process. This allows for amendments to be made, for example to incorporate information or amendments, without a Programme of Work (PoW) having to be withdrawn and resubmitted.<br>DMIRS acknowledges the comments regarding the limitations within its PoW-Spatial system. Proposed enhancements are currently under development and further information will be provided in the coming months. |
| **32** | **CME** | S103AJ : If section is retained, recommend reword section title to "Approval or refusal of activities in programmes of work". | In drafting processes the negative of approval is assumed. |
| **33** | **CME** | s103AJ(1) The current drafting implies the Minister does not approve a PoW but instead approves "an activity" that is contained with the PoW application (e.g. build a camp, drill a bore, etc.) It is therefore unclear the implications for PoW applications which contain more than one activity and whether the Minister can approve one activity and refuse to approve another contained within the same PoW application. CME recommends the section be reworded to clarify the PoW application as a whole is approved or refused or otherwise clarify the drafting (including of all other related clauses) if an alternative effect is intended. | Where section 103AJ(1) refers to 'an activity', this is inclusive of both the singular or plural use of activity. Per section 10 of the *Interpretation Act 1984* words in the singular number include the plural.<br>The Minister could approve an activity in a Programme of Work and refuse an activity in the same Programme of Work. This flexibility allows for particular activities to be approved (if required) rather than the whole application being refused. |
| **34** | **CME** | s103AJ(2) The current drafting only requires the Minister to notify the holder of the mining tenement of the outcome of a PoW application and does not contemplate notification to the authorised person of the holder. There exist scenarios in which an authorised person of the holder of a mining tenement (not the holder of the mining tenement themselves) will be the person responsible for lodgement of a PoW application and implementation of the approval. In this instance, notification by the Minister of the approval / refusal of a PoW application must be given to the authorised person. CME recommends the section be reworded to require notification by the Minister of the approval / refusal of a PoW application be provided to the holder of a mining tenement or a person authorised by the holder of a mining tenement. | The drafting reflects that the tenement holder is ultimately responsible for compliance with the provisions of the *Mining Act 1978* and tenement conditions. In practice, as is the current process, both the tenement holder and applicant would be notified regarding decisions on an application. |

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| **35** | **CME** | s103AJ(2)(b) CME support transparency of decision-making afforded by the requirement for the Minister to provide reasons for the refusal to approve an application for a PoW. | Support noted. |
| **36** | **EGPA** | Good you have deleted S46(aa) (iia) but unfortunately reintroduced at S103AI (3) (b) and at S103AM (3) (b). | The Bill relocates the existing provisions regarding the ability to prescribe a lodgement fee. There are currently no fees prescribed and there is no intention to prescribe a fee as part of drafting supporting regulations to the Streamlining (Mining Amendment) Bill 2021. |

| Division 4 - Mining Development and Closure Proposals | | | |
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| **37** | **APLA** | APLA is generally supportive of any measures that reduce the current excessive administration burden that comes with owning mining tenements. At present, the bureaucracy of tenement possession is turning prospectors and small miners away from the very industry it created. Jobs and small businesses are being destroyed by it. | Support noted. |
| **38** | **CCAA** | The move to a single Mining Development & Closure Proposal (MDCP) is supported in principle as it potentially removes duplicate information requirements of the previously separate Mining Proposal and Mine Closure Plan (MCP) documents and should help to improve consistency within the document, especially in relation to risk assessments and data. | |
| **39** | **AusIMM** | The Bill proposes a new Part IVA Division 4 to the Mining Act, which replaces the separate Mining Proposal and Mine Closure Plan with a single Mining Development and Closure Proposal. AusIMM support the introduction of a single Mining Development and Closure Proposal. | |
| **40** | **AMEC** | The proposal description, baseline data, risk assessments and environmental outcomes required for submission currently, via the separate Mining Proposal and Mine Closure Plan processes, are costly to produce, and as identified in previous advocacy efforts, create an unnecessary element of duplication. In order for companies to seek approval to commence their mining operations, these lengthy documents for assessment are prepared. As mine closure plans are a statutory obligation, DMIRS' conditions and obligations should align with other legislative requirements, as prescribed by the Environmental Protection Authority (EPA) and under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Will the MDCP, and the Mine Closure Plans which will still be required to be updated, address this interaction with other legislative requirements? | Mining Development and Closure Proposal content and guidelines<br><br>The Mining Development and Closure Proposal (MDCP) will remove the duplicate information requirements of a Mining Proposal and Mine Closure Plan, and mean that only a single Mining Development and Closure Proposal will be required to seek approval to commence mining operations on a tenement, removing the need for the preparation of two documents for an application.<br><br>The Bill provides the high level scope of the MDCP as per section 103AM(3)(c) that also provides for other information to be prescribed in regulations. |

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| | | AMEC made a submission to the Department's recent consultation on Mine Closure Completion Guidelines, supporting our consistent consideration that the environmental application process is overly complex and costly. We made a recommendation that the mine closure process could be streamlined by DMIRS working with the EPA, DWER and DPLH to prepare a holistic document that will cover a project from operations through to closure and relinquishment, to avoid the onus of navigating the process resting solely on the proponent. Industry also questions if this recommendation can be addressed in the MDCP? As it is likely considerations will need to be made on a case-by-case basis, as has been previously facilitated through AMEC, we again welcome opportunities for Industry and regulators to share information and expectations via a workshop format. Such activities provide Industry with more insight into the decision-making processes of the regulator, and provide an opportunity to address concerns or questions directly. It is important to the ongoing viability of our industry that the cost to operate in Western Australia must be lower, and the complexity which causes significant delays reduced, in order to provide the level of certainty and predictability of outcomes that is required by potential investors. As stated above, AMEC requests to view the draft example MDCPs prepared by DMIRS, prior to introduction.<br><br>Industry would welcome the provision of examples from the Department firstly for meaningful feedback on the proposed approvals statement and MDCP, and once the Bill has passed, to guide their applications. The provision of such examples would provide more clarity into the decision-making processes of regulators, and the information that is necessary to support these decisions and reduce instances of requests for further information. Requests for further information creates delays for industry. The clearer the guidance documents and procedures available to Industry, the more proponents will be able to address regulator expectations in the first instance. The provision of such documents will also reduce the disadvantage that those less experienced in the approvals process can face. | A more detailed and thorough review of the content requirements of a Mining Development and Closure Proposal would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing the subsequent regulations and supporting guidance. |
| **41** | **CCAA** | CCAA notes that the benefits will only be available if the format of the documentation of assessments, tables and all parts of the required materials are interchangeable between the MCDP and the ongoing MCP. That is, all relevant material should be able to be copied forward from the MDCP to the MCP and then just added to. CCAA remains concerned regarding the structure and detail required in the MDCP and how it will fit with future MCP's. CCAA understands that this will be outlined in subsequent Regulations and guidelines that should only be developed in consultation with industry with the aim to reduce costs and regulatory burden for industry and DMIRS alike. | |
| **42** | **CME** | In principle, CME supports the objective to remove duplicative information requirements and reduce unnecessary administrative burden for proponents and regulators. However, the proposed amendments do not address the fundamental issues of regulatory duplication or significant delays in the provision of feedback on submitted Mine Closure Plans. | |

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| | | It is also unclear how much effort (if any) will be saved through this measure given the high probability that much of the substance of a Mine Closure Plan will still need to be communicated to DMIRS assessing officers upfront as part of the MDCP process to illustrate how closure outcomes have been determined and why the proponent is of the view that they are acceptable. Additionally, CME notes that as the contents of the current Mining Proposals and Mine Closure Plans are entirely determined by DMIRS's guidelines, not the Act, the level of duplication and the wording of tenement conditions are determined by DMIRS rather than determined (or constrained) by the Act. CME also notes it has been difficult to assess the full impact of the MDCP proposed amendment given the lack of information available at the start of consultation about the MDCP and the (initial) confusion caused by needing to retain a separate Mine Closure Plan regardless of the introduction of the requirement for an MDCP. | Mining Development and Closure Proposal content and guidelines<br><br>The Mining Development and Closure Proposal (MDCP) will remove the duplicate information requirements of a Mining Proposal and Mine Closure Plan, and mean that only a single Mining Development and Closure Proposal will be required to seek approval to commence mining operations on a tenement, removing the need for the preparation of two documents for an application.<br><br>The Bill provides the high level scope of the MDCP as per section 103AM(3)(c) that also provides for other information to be prescribed in regulations.<br><br>A more detailed and thorough review of the content requirements of a Mining Development and Closure Proposal would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing the subsequent regulations and supporting guidance. |
| **43** | **EIANZ** | The Bill will replace the existing requirement for submission of a Mining Proposal (MP) (inclusive of a Mine Closure Plan (MCP)) with a Mining Development and Closure Proposal (MDCP). It is also our understanding that a separate Mine Closure Plan will still be required for tenements, although it won't be an approval requirement. EIANZ-WA acknowledges potential efficiencies in removing the need for two separate documents (MP and MCP) as part of the approvals process, although, it is unclear how much detail from the Mine Closure Plan will need to be communicated in the MDCP. Furthermore, while the MDCP format may ease some administrative burden, in practice, the same level of detail under the existing guidelines may be required to adequately demonstrate closure outcomes can be achieved. As with the 2016 and 2020 guidelines, there is likely to be issues from both a proponent and agency perspective in the implementation of the new format and content. EIANZ-WA encourages further consultation and release of draft guidelines for the new MDCP format. We encourage DMIRS to provide consistent advice across all regions on the requirements of the MDCP to enable the most efficient and robust assessment process to occur. | |
| **44** | **AMEC** | It is also important that there is a clear and consistent approach to the screening and assessment of industry's applications that meets transparent, clearly communicated timeframes. Transparent timeframes and decision making provide regulatory confidence required by project proponents and investors. The identification of timeframes in this guideline would aid the proponent interpret the investment necessary in time and cost to achieve the desired closure. | Timeframes of assessment<br><br>DMIRS' target timeframes for decision making are detailed in the Environmental Applications Administrative Procedures. The Procedures would be updated to reflect the amendments once in force. |
| **45** | **APLA** | This statement needs clarification – "*. In addition, the MDCP document itself is not approved – activities proposed in a MDCP are approved via an Approvals Statement.*". This was not discusses at any briefing sessions. If the MDCP does not require assessment/approval then why does it exist. This indicates that the approval statement is the principal document. This whole idea looks like being a repeat of the MRF/AER duplication and that is a classic case of double handling. | Approval of activities<br><br>For clarification, the Mining Development and Closure Proposal (MDCP) would still be approved, the difference is that the MDCP will not be required, by default, to comply with everything mentioned in the document. |

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| | | | Instead, the tenement holder will be required to comply with the limits and conditions in the approval statement, and all other tenement conditions imposed.<br><br>The MDCP consolidates the requirements of a Mining Proposal and Mine Closure Plan, removing current duplication in requirements (for example proposal description, baseline data and separate risk assessments and environmental outcomes tables). An MDCP is required to provide information to DMIRS regarding the proposed activities to inform an environmental assessment. Once the assessment is finalised, the Approvals Statement would specify the approved activities and relevant conditions of approval across multiple tenements. Tenement holders would receive a single Approvals Statement setting out clear relevant parameters of the approvals to clarify what activities are approved and what conditions relate to those activities. |
| **46** | **CME** | Under the Bill, DMIRS propose to introduce a MDCP. CME understands the objective of introducing a MDCP is to reduce duplicative information required for Mining Proposals and Mine Closure Plans. CME understands that MDCPs will replace Mining Proposals and will include additional information on closure outcomes. The MDCP is also intended to provide greater legal clarity regarding compliance requirements for closure outcomes as the closure outcomes will need to be included in the MDCP and consequently can be reflected in the Approvals Statement. The MDCP will be used by DMIRS to inform the impact assessment of proposed mining activities, and therefore conditions included on the Approvals Statement. CME understands there is not intended to be a condition on the Approvals Statement or a tenement condition which requires compliance with a referenced MDCP. CME also understands the Approvals Statement will be used to assess compliance of a mining project, not the MDCP. Where the scope or conditions of the Approvals Statement are required to be changed to align with proposed changes to mining operations, this will necessitate the submission of a new MDCP detailing the change. | Conditions to undertake activities in compliance with the Approvals Statement<br><br>Activities proposed in an MDCP and associated conditions will be reflected on an Approvals Statement. Where the scope of activities or conditions need to change the Approvals Statement would need to be updated. It is intended that the format of the information to be provided to DMIRS to inform a change would be commensurate to the scope and scale of the change, and will be considered through the more detailed and thorough review of the content requirements of a MDCP which would be undertaken following passage of the Bill. This would be subject to further detailed consultation.<br><br>As currently drafted, it would be a deemed condition under the *Mining Act 1978* that activities will be undertaken in accordance with the Approvals Statement (see 103AK(4)). |
| **47** | **AusIMM** | AusIMM recommend the Department establish a clear process for auditing and progressively reviewing operations against Mining Development and Closure Outcomes. Whether legislated or managed administratively, the process, key dates and review triggers for each project must be clearly established at the time of approval. These key project milestones should also be open to review on an ongoing basis as operational conditions change. | Closure Outcomes<br><br>The environmental and closure outcomes proposed in a Mining Development and Closure Proposal as well as the status of the site will be monitored through DMIRS' compliance program (e.g. through compliance reviews and site inspections). |

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| **48** | **CME** | s103AK(2) Clarification required as to whether the intent is that once an Exploration Licence converts to a Mining Lease that any PoWs that existed on the Exploration Licence are voided and any remaining activities that were approved via the PoW must be reapplied for under a MDCP and approved in an Approvals Statement. | Where an exploration licence is converted to a mining lease, a new Programme of Work is required to be lodged for those activities (unless they have been submitted in a Mining Development and Closure Proposal and approved on an Approvals Statement). As detailed in section 4.5 of the DMIRS' Environmental Applications Administrative Procedures, DMIRS will consider accelerating assessment of applications when existing tenure has been converted to a new form of tenure. This will apply where it is demonstrated that the activities are the same as those previously authorised on the area. |
| **49** | **CME** | s103AK(4) Current drafting can be read to indicate an Approvals Statement is issued for individual leases. This is inconsistent with the proposal that a single Approvals Statement may cover multiple tenements, as outlined in the Consultation Summary and DMIRS public briefings. Clarification is requested. | An Approvals Statement relates to the activities proposed in an MDCP. This can be across multiple tenements which would be identified on the Approvals Statement. The use of 'lease' and 'licence' is inclusive of both the singular or plural use of activity. Per section 10 of the *Interpretation Act 1984* words in the singular number include the plural. |
| **50** | **CME** | s103AM(5) The proposed amendment limits variations to MDCPs prior to approval by the Minister. It is unclear the key issue this new provision is intended to address. The ability to amend MDCP applications prior to assessment / approval is necessary to enable proponents the flexibility to update the application to incorporate new information received from infield surveys, or to reflect last minute changes to work plans. Without this flexibility proponents will be required to withdraw and resubmit MDCPs, resetting the clock and extending approval timeframes. It may also be necessary to address the assessment recommendations and advice of DMIRS staff. Therefore, limiting this ability may unnecessarily increase system administration and impost on proponents through requiring withdrawal and resubmission (as is currently experienced). This current situation requires re-work due to the need to withdraw and re-submit a Mining Proposal which, although not currently required by the Act, may become required for MDCPs due to the proposed Act amendments. This withdrawal and resubmission process also results in resetting the clock and extends actual assessment timeframes for proponents. Proponents need some flexibility to incorporate new information and make adjustments (including adjustments to adopt DMIRS advice as part of the assessment process). CME requests further clarification on this proposal. | The proposed amendments formalise the flexibility to submit substitute documents during the assessment process. This allows for amendments to be made without an MDCP having to be withdrawn and resubmitted. The requirement for the MDCP to not be substantially different is to ensure that it is not a completely new activity being proposed, as this would require recommencement of the assessment process. |
| **51** | **CME** | CME supports proposed amendments to s70O to remove reference to guidelines. This amendment provides greater clarity in defining what constitutes the application document and enables consideration of impact assessments under other legislation, thereby facilitating regulatory streamlining and clarification of DMIRS jurisdiction. This would then clearly enable DMIRS to modify their existing guidance to remove whole sections that duplicate existing requirements under the EP Act.<br><br>Additionally, the proposed changes remove the need for "statutory guidelines" and reduce risks to security of title that may stem from these statutory guidelines | Non statutory guidelines<br><br>Support noted. |

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| **52** | **EPA** | The EPA understands the Bill proposes the submission of a single Mining Development and Closure Proposal. This streamlined application document will be assessed for approval and is intended to result in a consolidated Approvals Statement. Whilst it is understood that the Bill has been developed under the hierarchy of the Mining Act and not the EP Act, the EPA supports the use of the principles used as part of environmental impact assessment undertaken through Part IV of the EP Act. The EPA uses environmental principles, factors, and associated factor objectives as the basis for assessing whether a proposal can be implemented. When assessing mining (and other) proposals, the EPA employs a mitigation hierarchy that includes avoidance, minimisation, rehabilitation and offsetting. The EPA recommends consideration be given to adopting a similar process for evaluation of environmental effects of the Mining Development and Closure Proposal. The EPA believes this would result in both an effective process and reduce the number of different processes, approaches and standards used.<br><br>In addition, recent amendments to the EP Act will soon allow the EPA to take into account other statutory decision-making processes which can mitigate the potential impacts of proposals on the environment. This can be used when determining whether or not to formally assess proposals and when recommending conditions of approval. Alignment with the EPA's environmental principles, factors and objectives; mitigation hierarchy; proposed outcome-based conditions approach; and consideration of cumulative and holistic impacts will support the use of this power.<br><br>The EPA is aware that officers from the Department of Water and Environmental Regulation (DWER) and DMIRS have been meeting to progress the implementation of the EP Act amendments and identify streamlining opportunities across the two agencies. The EPA is supportive of this engagement continuing and looks forward to progressing further improvements to achieve environmental protection and efficiencies, including any necessary updates to the Memorandum of Understanding between the two agencies.<br><br>As an area of increasing focus and as part of the EPA new powers to take into account other decision-making authorities, the EPA is also supportive of consideration to be given to other agencies that can mitigate the potential impacts on the environment from greenhouse gas emissions. In the event that these decision-makers are able to adequate assess and regulate greenhouse gas emissions, the EPA could use its new powers to not formally assess or condition proposals which would lead to broader streamlining opportunities. | Interactions with EP Act and other regulators<br><br>DMIRS' environmental factors and objectives for decision making under the *Mining Act 1978* are detailed in the Environmental Objectives Policy.<br><br>DMIRS is also supportive of the ongoing engagement with officers from DWER to discuss and workshop implementation of the EP Act amendments and streamlining opportunities for the two agencies. DMIRS is currently working with DWER on streamlining implementation of amendments to the EP Act specifically relevant to decision-making authorities and how the EPA may be able to take DMIRS statutory decision-making processes into account in mitigating environmental impacts of projects assessed by the EPA. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **53** | **FMG** | 2.3 Mining Development and Closure Proposal<br>Fortescue operations are developed in a staged approach. This means the full scope of the mine development may not be included in *Mining Act* approvals until later in the mine life when, for example, the correct tenure use is available; although the full scope may already have been assessed and approved with a closure strategy under Part IV of the EP Act.<br>Under the proposed approach under the Bill, where MCPs have already been developed to support approvals or conditions under the *EP Act*, the documents will need to be re-written to support the submission of an MDCP.<br>The majority of effort and time in developing and reviewing MCPs is expended on the development of mine closure designs, e.g., waste dump rehabilitation designs. These are also the aspects of the mine closure plans that are most likely to be changed over the life of the mine and therefore not bear resemblance to the final closure outcomes.<br>Under the current Mining Proposals/Mining Closure Plan (MPMCP) staged approvals approach, Fortescue provides temporary closure plans that show how successful mine closure could be achieved based on the restricted mine development scope. These "scenario" or "fictitious" MCPs are not intended to be implemented. The reasoning as to why the proponent has developed the temporary MCPs is included within the MCP. These explanations may also clarify conflicts that arise between the temporary MCP and life of mine closure strategies approved under the *EP Act*.<br>The clear separation of operational and closure phase management obligations through the current MPMCP approach provides transparency and confidence that MCPs can be reviewed, revised and updated without compromising operation management or closure outcomes.<br>It is unclear how transparency and integrity in the approval process can be maintained through the proposed MDCP merged approach, when the basis of an approval could be a "scenario" closure plan in conflict with life of mine closure strategies already approved under the EP Act.<br>Recommendations<br>Fortescue does not support the inclusion of closure strategies and closure management within the MDCP.<br>To expedite the approval process Fortescue recommends DMIRS consider further streamlining of the MDCP document content to remove the requirements for provision of closure-related stakeholder engagement information, post-mining land use, completion criteria, closure work programs, closure design information, closure monitoring and maintenance, and financial provisioning. This information would be included in future MCP updates.<br>Furthermore, Fortescue recommends DMIRS consider providing an exception to the inclusion of closure outcomes and closure risks in the MDCP when closure outcomes have already been assessed under Part IV of the *EP Act*. | A more detailed and thorough review of the content requirements of a Mining Development and Closure Proposal would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing the subsequent regulations and supporting guidance.<br>As DMIRS is a key regulator of rehabilitation and mine closure, it is expected that the MDCP would include details on mine closure, noting that the level of detail included in subsequent mine closure plans would be refined over time as the site progresses towards closure. |

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| **54** | **CME** | For proponents that also undergo Part IV environmental impact assessment under the EP Act, it is generally the case that the proponent will be required to prepare a Mine Closure Plan upfront regardless of any DMIRS proposals to inform the EPA's process and any associated public consultation process, particularly in relation to the determination of any residual impacts and offset requirements. CME understands DMIRS has not consulted with DWER EPA Services or the EPA about the proposed changes for submission of Mine Closure Plans and the MDCP proposal. The lack of clarity as to how these two processes are intended to work has further complicated assessment of the MDCP proposed amendment.<br><br>CME recommends DMIRS consult with the EPA (and EPA Services) regarding changes affecting closure planning. | Interactions with EP Act and other regulators<br><br>DMIRS has consulted with both DWER and the EPA regarding the proposed amendments. |
| **55** | **FMG** | Introduction of a MDCP – Comment/Request for Clarification<br><br>No details are provided confirming content requirements of an MDCP. This information should be provided.<br><br>Proposed section 103AM (c)(iv) requires details of closure outcomes. Fortescue would like confirmation of DMIRS' approach regarding closure outcomes, i.e. will DMIRS be consistent with EPA approach to outcomes based conditions in approving the result of various impact mitigation activities at the proponent's discretion or will DMIRS maintain a prescriptive approval according to detail parameter and characteristics described in the MDCP?<br><br>Fortescue anticipates DMIRS should accept higher level descriptions of the outcomes to be achieved rather than insist on detailed characteristics such as erosion rates, and dimensions and angles for above ground structures associated with completion criteria. | Section 103AM(3) provides an overview of the types of information expected in a Mining Development and Closure Proposal, and this may be supported by prescribing other types of information. A more detailed and thorough review of the content requirements of a Mining Development and Closure Proposal would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing the subsequent regulations and supporting guidance.<br><br>As addressed above, the closure outcomes will be higher level objectives and not include completion criteria and performance objectives detailed. |
| **56** | **FMG** | 2.3 Mining Development and Closure Proposal<br><br>Fortescue operations are developed in a staged approach. This means the full scope of the mine development may not be included in *Mining Act* approvals until later in the mine life when, for example, the correct tenure use is available; although the full scope may already have been assessed and approved with a closure strategy under Part IV of the *EP Act*.<br><br>Under the proposed approach under the Bill, where MCPs have already been developed to support approvals or conditions under the *EP Act,* the documents will need to be re-written to support the submission of an MDCP.<br><br>The majority of effort and time in developing and reviewing MCPs is expended on the development of mine closure designs, e.g., waste dump rehabilitation designs. These are also the aspects of the mine closure plans that are most likely to be changed over the life of the mine and therefore not bear resemblance to the final closure outcomes. | A more detailed and thorough review of the content requirements of a Mining Development and Closure Proposal would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing the subsequent regulations and supporting guidance.<br><br>As DMIRS is a key regulator of rehabilitation and mine closure, it is expected that the MDCP would include details on mine closure, noting that the level of detail included in subsequent mine closure plans would be refined over time as the site progresses towards closure. |

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| | | Under the current Mining Proposals/Mining Closure Plan (MPMCP) staged approvals approach, Fortescue provides temporary closure plans that show how successful mine closure could be achieved based on the restricted mine development scope. These "scenario" or "fictitious" MCPs are not intended to be implemented. The reasoning as to why the proponent has developed the temporary MCPs is included within the MCP. These explanations may also clarify conflicts that arise between the temporary MCP and life of mine closure strategies approved under the *EP Act*.<br><br>The clear separation of operational and closure phase management obligations through the current MPMCP approach provides transparency and confidence that MCPs can be reviewed, revised and updated without compromising operation management or closure outcomes.<br><br>It is unclear how transparency and integrity in the approval process can be maintained through the proposed MDCP merged approach, when the basis of an approval could be a "scenario" closure plan in conflict with life of mine closure strategies already approved under the EP Act.<br><br>Recommendations<br><br>Fortescue does not support the inclusion of closure strategies and closure management within the MDCP.<br><br>To expedite the approval process Fortescue recommends DMIRS consider further streamlining of the MDCP document content to remove the requirements for provision of closure-related stakeholder engagement information, post-mining land use, completion criteria, closure work programs, closure design information, closure monitoring and maintenance, and financial provisioning. This information would be included in future MCP updates.<br><br>Furthermore, Fortescue recommends DMIRS consider providing an exception to the inclusion of closure outcomes and closure risks in the MDCP when closure outcomes have already been assessed under Part IV of the *EP Act*. | |
| **57** | **Lindsay Stephens of Landform Research** | I support the use of a set of approval statements. Sounds like Conditions? Don't you think? DMIRS also has conditions. In planning Law and Decisions the conditions prevail and the Management Plan applies if there are no specific conditions. The EPA uses the same principles and so should DMIRS. That is the Approval Statement prevails and then the Mining Development and Proposal. If you look at how planning decisions are made that is a good model that is proven. With the proposed changes It would be great (well in reality it must be) if there was consistency in that the same terms used in the Mining Proposals are also used in the Mine Closure Plans. That is allow proponents some flexibility. A single word can result I a rejection of a document at times. As I said above the objective is to get to the destination safely without speeding or breaking any rules. It's not about being pedantic and trying to get every word correct. Often the proponent has more knowledge than the officers who try and inflict a name change or something else, often incorrectly. | The intent of the Approvals Statement is to provide a single source to identify all approved mining operations, their corresponding conditions, closure outcomes for the site and the review date for mine closure plans. |

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| | | For example I have had to change Hydrogeology to Hydrology when if you look in the dictionary they mean the same but they do not means the same to a geologist or hydrogeologist/ hydrologist.<br><br>If everything is simplified, the endless terms reduced, the endless changes stopped and good logical process is employed. See my comments above. There is an opportunity to get this right. I am willing to provide advice (free) if DMIRS are inclined to accept. | |

| Approvals Statement | | | |
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| **58** | **AMEC** | The intent behind the new Approvals Statement concept is noted, to function as a single source of truth for all approved mining operations and corresponding conditions, anticipated to be regularly updated through a project's life. Industry seeks assurance that the updates that will be required to the Approvals Statement as operations or conditions change, will not result in more administrative workload and costs than is currently required under the existing process. With tenement holders proposed to update the single approvals statement under the new process, rather than the current practice of multiple documents outlining tenement conditions, when changes are made to a specific tenement, will the whole approvals document need to be resubmitted for approval, or just the specific amendment? | Content of further approvals requirements<br><br>It is intended that the format of the information to be provided to DMIRS to inform a change to the Approvals Statement would be commensurate to the scope and scale of the change. For approval of new activities, the flexibility is provided for this to either be a whole site MDCP submitted with the new activity included or a stand-alone MDCP just for the new activity.<br><br>Additionally, as part of developing the Regulations and the rollout of the Mining Development and Closure Proposal (MDCP) framework, a more detailed and thorough review of the content requirements for an MDCP would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing subsequent Regulations and guidance. |
| **59** | **CME** | s103AP(1) CME does not support the Minister's unilateral power to vary or cancel an approval without prior consultation with the proponent. CME also does not support the absence of appeal provisions to enable proponents to appeal such a decision. The proposed amendments and accompanying Consultation Summary provide no detail regarding the conditions under which the variation or cancellation of an approval would be warranted. CME understands this detail and the supporting policy work is yet to be developed, and that this power is not expected to be delegated. CME strongly recommends the section be reworded to require the Minister to consult and reach agreement with the proponent prior to varying or cancellation of an approval. | Procedural fairness for cancellation and variation of Approvals Statements<br><br>DMIRS will provide procedural fairness commensurate to the scale of the change, for example if the Minister was intending to cancel an Approvals Statement – the tenement holder would be given an opportunity to comment prior to this being actioned. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **60** | **AMEC** | TIndustry is concerned the requirements proposed within the new approvals statement process are too prescriptive, and this has the potential to create long-term issues. With prescriptive requirements, there is potential for clerical error, but constrained ability to enact amendments. Without the ability for Industry to work with the Department to ensure conditions are workable, we could face avoidable instances of non-compliance, by error. AMEC recommends reducing the prescriptive language relating to the approvals statement, to ensure proponents can work with the Department, to develop workable conditions and expectations. As articulated in our Mining Legislation Committee meeting attended by DMIRS, more clarity on the modifications to the approvals process and associated documentation is requested. AMEC will commit to review the draft examples of the approval statement prior to introduction expediently. | Procedural fairness for condition setting<br><br>DMIRS will provide procedural fairness commensurate to the scale of the change to the Approvals Statement. Recommended conditions on the Approvals Statement would be provided to the tenement holder for an opportunity to comment prior to the Approvals Statement |
| **61** | **CCAA** | CCAA supports in principle the introduction of a single Approvals Statement that will provide the one document that will be used to measure compliance, improving clarity for operator and regulator. CCAA remain concerned that the proposed changes appear to give DMIRS assessing officers unrestricted ability to impose conditions on companies without the natural justice option of appealing the set conditions to an independent party. Under the current system the MDCP documents are the approval together with separate conditions, so the proponent has a reasonable amount of control over how the operation is run. This is fair and reasonable. However, under the proposed system, DMIRS will not be approving the MDCP document but instead using them as a basis to impose conditions on the mining operation. Under this system the officer is no longer bound by the applicant's documents/commitments, and there is a risk that the assessing officer may impose unreasonable or unworkable conditions on the Mining Operations. There is real potential for significant adverse outcomes for companies with no mechanism to resolve the issues if there is no right of appeal on the set conditions in the Approvals Statement. To help reduce these potential disputes, CCAA recommends that there should be a system for the regulator and operator to mutually agree on the Approvals Statement for operations before the Statement is confirmed and becomes an enforceable document. If agreement cannot be reached within a set period, there must be a defined independent non-legal dispute resolution process for the operator to access. Recourse to the Wardens Court should be avoided.<br><br>CCAA recommends that the approval process be similar to a Development Approval under the *Planning and Development Act 2005* or *Environmental Protection Act 1986*. Under this process a set of conditions (which are appealable) are imposed and which prevail. Where those conditions are silent, the Management Plan, in this case the MDCP and MCP become the requirement. In most cases there is reference to the Conditions of approval prevailing and the requirement of compliance with the approved Management Plan (MDCP and MCP). This approach enables longer term flexibility and will bring consistency between legislation. | |

| Approvals Statement | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **62** | **APLA** | APLA still has doubts of the efficacy of the proposed Approvals Statement. The concept seems to be little different to the MP/MCP that is currently in place. Therefore, we can't visualise the benefits. The concept seems more directed at environmental control and oversight rather than departmental efficiencies.<br><br>So far, APLA only sees duplication. However, we support anything that disposes of or prevents duplication. Other than the LIN changes, the changes in this proposal are seemingly for the benefit of DMIRS internal staffing and resources. To "sell" the proposed MDCP and Approvals Statement solely on the basis of "only one form to fill instead of two" is thus far unconvincing.<br><br>More work is required by DMIRS to satisfy APLA that this Approvals Statement concept will result in less admin work for miners and prospectors. At present it looks like duplication. | The intent of the Approvals Statement is to provide a single source to identify all approved mining operations, their corresponding conditions, closure outcomes for the site and the review date for mine closure plans.<br><br>Currently where DMIRS approves a mining proposal, compliance with the commitments and activities proposed is enforced through imposition of tenement conditions. For sites with multiple mining proposals and multiple tenements, this results in the need to manage compliance across multiple documents and conditions. This creates additional administrative effort for both DMIRS and industry. In contrast, the Approvals Statement would specify the approved activities and relevant environmental conditions across multiple tenements in one document. Under this proposed approach, tenement holders would have a single Approvals Statement setting out clear relevant parameters of the approval. This would result in clarity of the approved activities and conditions, and efficiencies for sites managing compliance with multiple approvals. |
| **63** | **AusIMM** | The Bill proposes a single Approvals Statement, which will function as the 'point of truth' for approved mining operations, conditions, closure outcomes and review dates. AusIMM note that this reform reflects changes made to the *Environmental Protection Act 1986* (WA) to clarify the interrelationship between environmental, mining and other land use approvals.<br><br>AusIMM support the consolidation of Mining Act approvals into a single Approvals Statement, recognising that this will provide clarity for all stakeholders engaged in the mining (and broader land use planning) approvals process.<br><br>AusIMM recommend the Department undertake further consultation on the precise scope of the Approvals Statement, as part of the next tranche of consultation on these reforms. A detailed understanding of the contents of Approvals Statements is necessary to ensure they interact appropriately with the Environmental Protection Act and other legislation. | Format and content of the Approvals Statement<br><br>The aspects that will be included on an Approvals Statement are listed at section 103AO of the Consultation Draft. An Approvals Statement will record: An approval given to an activity, Any conditions attached to the approval, Any relevant information, closure outcomes, MCP lodgement date.<br><br>The aspects that will be included on an Approvals Statement are listed at section 103AO of the Consultation Draft. This will include outcomes-based conditions attached to the approval of the activity. Conditions on the Approvals Statement will not be replicated as tenement conditions, however DMIRS intends that the Register (eMits) would reflect that there is an Approvals Statement for that particular tenement. |
| **64** | **CME** | Under the Bill, DMIRS propose to introduce an Approvals Statement. CME understands the objective of introducing an Approvals Statement is to improve public transparency and clarify compliance requirements for proponents and regulators by consolidating approved activities and relevant conditions onto a single document. CME understands the Approvals Statement will be similar in form and content to an approval letter which is currently issued upon approval of a Mining Proposal. CME also understands an Approvals Statement is intended to replicate tenement conditions relevant to environmental management of a mining activity and will include conditions on key activity characteristics (e.g. tailings storage facility design and material type, waste rock dump height and materials) drawn from the proposed MDCP, with an focus on outcome-based conditions. | |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **65** | **CME** | Additionally, CME understands DMIRS intends not to continue applying a standard tenement condition to tenements with an approved Mining Proposal(s) of the form, "The construction and operation of the project and measures to protect the environment to be carried out in accordance with the document titled: [] Registration Title [] dated [] signed by [] and retained on Department of Mines, Industry Regulation and Safety (DMIRS) file no. []. Where a difference exists between the above document(s) and the following conditions, then the following conditions shall prevail." but will instead apply a standard tenement condition to comply with the Approvals Statement. DMIRS has highlighted that by adopting this approach only the requirements in the Approvals Statement will need to be complied with, not the entire contents of the MDCP. DMIRS has highlighted this as a compliance benefit for proponents over the current condition model which requires proponents to comply with a Mining Proposal in its entirety. CME supports the objective to improve public transparency and provide greater legal certainty for proponents regarding conditions of approval. However, the proposed amendments do not address the fundamental issue of regulatory duplication, nor are amendments to the Mining Act necessary to achieve the stated desired outcomes which can instead be realised in the short term within the existing framework. | Condition to undertake activities in accordance with the Approvals Statement<br><br>As currently drafted, it would be a deemed condition under the *Mining Act 1978* that activities will be undertaken in accordance with the Approvals Statement (see 103AK(4)). |
| **66** | **CME** | Currently, conditions of approval for a mining project are not captured in any one place, instead they exist under tenement conditions on individual tenements (of which there can be several) and are captured in the detail of Mining Proposals and associated Mine Closure Plans (of which there can also be several). Furthermore, there exists a lack of clarity for proponents as to:<br><br>• What constitutes an approval condition in an approved Mining Proposal and Mine Closure Plan given the documents in their entirety are referenced in tenement conditions, and<br><br>• How these change or are superseded by Mining Proposal revisions.<br><br>The lack of user-friendliness of DMIRS IT systems further compounds the issue of compliance clarity and negatively impacts perceptions of transparency of approvals – particularly for members of the public who may infrequently access these IT systems. It is not easy for proponents or the public to navigate DMIRS IT systems to access relevant conditions for approved mining activities across multiple tenements, and systems lack the core functionality to view or generate outputs which consolidates all conditions of approval for a mining project.<br><br>The Mining Act is fundamentally tenure-focused, whereby the ultimate penalty is forfeiture of tenure. As such, to be able to approve clearing for certain activities and monitor compliance with approved limits, limits by activity must be linked to individual tenements. Approvals Statements will not consolidate total limits across multiple tenements and consequently will not address this key issue of flexibility for proponents to effectively manage disturbance within a development envelope. | Approvals Statement provides increased flexibility across tenements<br>A key benefit of the Approvals Statement is to consolidate limits across multiple tenements and address this key issue of flexibility to manage disturbances within a development envelope.<br><br>DMIRS agrees that the practice of conditioning documents is unclear as to the approval conditions, and tenement centric based conditions does not provide the necessary flexibility. As such the Bill will deliver activity approval subject to conditions rather than document approvals to improve clarity of compliance requirements.<br><br>The Approvals Statement identifying activities approved across multiple tenements will provide the sought after flexibility within a development envelope.<br><br>The Approvals Statement will also ensure clarity that it is sufficiently clear of the approved activities and conditions, reduce the need for ongoing approvals requirements particularly for minor changes, and simplify the ongoing compliance reporting requirements throughout life of mine.<br><br>An Approvals Statement relates to the activities proposed in an MDCP. This can be across multiple tenements which would be identified on the Approvals Statement. The use of 'lease' and 'licence' is inclusive of both the singular or plural use of activity. Per section 10 of the *Interpretation Act 1984* words in the singular number include the plural. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| | | It is important to note that clearing of native vegetation is regulated by the EP Act but in a manner that allows flexibility across mining tenements within environmental constraints – unlike the hectare limits per tenement applied by DMIRS.<br>• s103AL(4) Current drafting can be read to indicate an Approvals Statement is issued for individual miscellaneous licences. This is inconsistent with the proposal that a single Approvals Statement may cover multiple tenements, as outlined in the Consultation Summary and DMIRS public briefings. Clarification is requested.<br>• s103AN(2)(a) Current drafting may indicate an Approvals Statement is issued for individual mining tenements. This is inconsistent with the proposal that a single Approvals Statement may cover multiple tenements, as outlined in the Consultation Summary and DMIRS public briefings. CME recommends the section be amended to refer to 'mining tenements' | |
| **67** | **CME** | s103AN(2)(b) CME requests clarification on drafting use of "holder" as an alternate to "lessee" given the holder of a mining lease is referred to in the Act as a "lessee" (not a "holder") and whether or not this distinction needs to be carried consistently through the Act. CME recommends the section be reworded to clarify a copy of the Approvals Statement is given to the holder of a mining tenement or a person authorised by the holder of a mining tenement. | The wording has been drafted to be consistent with the existing terminology used in the *Mining Act 1978*. |
| **68** | **CME** | Defence against clerical errors in an Approvals Statement<br>Legislative reform recommended in the near-term : Where the regulation of clearing for exploration and mining activities is to apply under the Mining Act and amendments implementing the Approvals Statement proposal remain, amendments are needed to ensure proponents are protected against the risk of forfeiture of tenure due to clerical errors in an Approvals Statement. Section 103AN(5) of the Bill states "a condition recorded on an approvals statement has effect for all purposes as a condition to which the mining tenement is subject". This indicates that the Approvals Statement has legal standing, and as such non-compliance with the Approvals Statement results in forfeiture of tenure. CME are concerned regarding the legal standing of an Approvals Statement and the risk of forfeiture of a mining tenement due to the potential for clerical errors made by DMIRS in replicating tenement conditions onto the Approvals Statement. Members' experience to date indicates a real risk of clerical errors, with approval letters being received from DMIRS with clerical errors in replicated tenement conditions.<br>As these approval letters currently have no standing, these issues have not historically been raised with DMIRS. CME recommends the Bill be amended to provide a defence for the proponent against forfeiture of tenure due to Departmental administrative or clerical errors in an Approvals Statement. | Enforcement of conditions on the approvals statement<br>Tenement condition breaches are reviewed by the Resource and Environmental Compliance Enforcement Panel who provide a recommendation to the Minister who ultimately decides the outcome of the breach. DMIRS considers that this decision-making process would also protect against clerical errors.<br>In addition The *Mining Act 1978* currently includes provisions for application for restoration by the holder of the forfeited tenement (see section 97A). |

| Approvals Statement | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **69** | **Iluka Resources** | Amend the Streamlining (Mining Amendment) Bill 2021 (the Bill) to provide a defence for the proponent against forfeiture of tenure due to administrative or clerical errors in an Approvals Statement. | Enforcement of conditions on the approvals statement<br>Tenement condition breaches are reviewed by the Resource and Environmental Compliance Enforcement Panel who provide a recommendation to the Minister who ultimately decides the outcome of the breach. DMIRS considers that this decision-making process would also protect against clerical errors.<br>In addition The *Mining Act 1978* currently includes provisions for application for restoration by the holder of the forfeited tenement (see section 97A). |
| **70** | **Iluka Resources** | Provide an online mechanism for access to Approvals Statements against each applicable tenement, to avoid any confusion as to which Statement applies to which tenement. It could be included under "Conditions" on Mineral Titles Online as an option. | DMIRS intends that the Register (eMits) would reflect that there is an Approvals Statement for that particular tenement. |
| **71** | **EGPA** | The approvals statement will need provision to be changed as mining projects evolve over time. That is to say there needs to be built in flexibility on both sides. | It is intended that the Approvals Statement would be amended over time as the project develops. |
| **72** | **EIANZ** | The Bill will introduce the concept of an Approvals Statement, which will function as a single source to identify all approved mining operations and their corresponding conditions for a mine site.<br>EIANZ-WA supports the concept of an Approvals Statement, for ease of auditing, transparency and accountability. However, our members would like more information on the following aspects:<br>• The precise form and content of the Approvals Statement. *'Relevant information'* as stated in the Bill requires further definition and consultation with industry.<br>• An indication on timeframes associated with amending an Approvals Statement and the likelihood of Ministerial approval being delegated under the provisions of Section 12.<br>• Does each tenement have it's own Approvals Statement or can an Approvals Statement be applied to a group of tenements?<br>• Will the Approvals Statement be publicly available and are there mechanisms available for public comment or input? | Support noted.<br>• Relevant information may include any contextual baseline information provided in a Mining Development and Closure Proposal that would give context to the other aspects of the Approvals Statement.<br>• DMIRS' target timeframes for decision making are detailed in the Environmental Applications Administrative Procedures. The Procedures would be updated to reflect the amendments once in force.<br>• An Approvals Statement relates to the activities proposed in a mining development and closure proposal which could be across multiple tenements.<br>• Approvals Statements will be made be publicly available, however there are not mechanisms under the *Mining Act 1978* for formal public comment to be made on these during assessment as it is expected that stakeholder engagement will be undertaken throughout the development of the mining development and closure proposal. |
| **73** | **FMG** | **PART TWO**<br>2. Responses to Proposed Streamlining (Mining Amendment) Bill 2021 - Review Summary<br>2.1 Approvals Statement<br>Fortescue does not support the requirement for all Approval Statements to be signed off by the Minister. This legislative requirement is likely to lead to additional delays in processing of approvals. If this reform is introduced, Fortescue recommends a delegated authority to DMIRS management. | The intent is that this would be delegated to the Executive Director, Resource and Environmental Compliance Division DMIRS. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **74** | **FMG** | 2.2 Approvals Statement – closure outcomes<br><u>Stakeholder agreement to site-specific closure outcomes</u><br>DMIRS recognise that "At the project approval stage, closure outcomes may be broadly identified and further refined in the stakeholder engagement process" (DMIRS, 2020).<br><br>At Fortescue's operations, mine closure is likely to occur 30 or more years after the commencement of mining, with another 15 or more years until relinquishment of the tenure for transition to the next land use. Native Title holders and other land holders / owners, including other Western Australian Government Departments, are unsurprisingly reticent to agree to specific or general closure outcomes more than 10 years in advance of the anticipated mine closure.<br><br>There are no government support activities that assist land holders / owners to understand their rights with respect to mine closure. Consequently, Fortescue's stakeholder engagement processes by necessity include upskilling of stakeholders to understand the closure planning process, their rights and ability to influence the closure outcomes. In Fortescue's experience, it takes years to decades to develop land holders / owner confidence and knowledge to a level where informed consent on closure outcomes can be provided. Therefore, it is not reasonable to expect land holders / owners to endorse closure outcomes prior to submission of the MDCP.<br><br>Without the endorsement of the land holder / owners and other key Government agencies, it is unclear whether the Minister will be able to endorse the closure outcomes, and thereby ratify the consolidated approvals statement.<br><br>Similarly, seeking formalised deferral from land holders / owners on the closure outcomes, to enable the Minister to endorse closure outcomes in absentia, would add another level of legal complexity to the approval process and associated approval delays.<br><br><u>Closure outcomes statements</u><br>Closure outcomes are intended to confirm that the land, water and vegetation conditions on disturbed land meet acceptable standards for future land use as defined by the land holder / owner. Historically, DMIRS have utilised standard tenure conditions to communicate the outcomes that needed to be achieved on closure.<br><br>For example: "On the completion of operations or progressively where possible, all waste dumps, tailings storage facilities, stockpiles or other mining related landforms must be rehabilitated to form safe, stable, non-polluting structures which are integrated with the surrounding landscape and support self-sustaining, functional ecosystems comprising suitable, local provenance species or alternative agreed outcome to the satisfaction of the Executive Director, Resource and Environmental Compliance, Department of Mines, Industry Regulation and Safety." (DMIRS eMiTs List of Standard Conditions/Endorsements, 2020) | Comments noted.<br><br>As DMIRS is a key regulator of rehabilitation and mine closure, it is expected that the Approvals Statement would clearly identify the closure outcomes. Closure outcomes are currently already required as part of the mine closure planning processes and are higher level than the detailed completion criteria.<br><br>In addition, as part of developing outcomes based conditions there are opportunities to standardise closure outcomes and for the relevant outcomes to the post-mining land use to be adopted.<br><br>All conditions of approval as well as the closure outcomes will be clearly identified on the Approvals Statement.<br><br>It is intended that the closure outcomes identified on the Approvals Statement will only need updating if the proponent requests and the delegated officer approves the change. This will require minor drafting changes to the current reference to 'most recent' mine closure plan in the Bill, which is currently being progressed. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| | | • "Rehabilitate disturbed areas to a modified landscape considering visual amenity and properties of available rehabilitation materials" KCGM Mine Closure Plan 2018 Resubmission.<br>• "The waste dump will be physically and geochemically safe to humans and animals" Fenix Iron Ridge Project Mine Closure Plan 2019.<br>• "Final mine landform designs achieve long term geotechnical stability and effective containment of any toxic or other deleterious material(s)" Roy Hill Project Roy Hill Mine Closure Plan 2019.<br><br>DMIRS have suggested that the consolidated Approvals Statement will improve communication of the conditions under which approvals have been granted. However, the uniqueness by which MCP closure outcomes have been encouraged to be developed, and the anticipated ongoing review and update process, suggests the inclusion of unique closure outcomes in Approvals Statements has the potential to be more confusing rather than clarifying.<br><br>Recommendations<br><br>Fortescue does not support the inclusion of closure outcomes in the Approvals Statement.<br><br>DMIRS should continue to use standardised tenement conditions for closure outcomes, e.g. as stipulated within DMIRS' existing list of standardised conditions, to reduce the requirement to review and update the Approvals Statements, and seek Ministerial consent, with each MCP update. | |
| **75** | **FMG** | Approvals Statement - Comment/Request for Clarification<br><br>• Clarity is requested on DMIRS views on just what an environmental outcome is and how it will be approved. How will the environmental outcome relate to the environmental outcome conditions presented in the primary approval granted under Part IV of the *EP Act*?<br>• Environmental Outcome statements within Mining Proposals and MCPs usually include descriptions of measures that describe how the outcome will be monitored or assessed during operations to demonstrate the outcome has been achieved. For closure outcomes the measures are highly variable and likely to change over time (e.g. with technological and scientific advances). Thus, inclusion of the measures that are expected to change prior to implementation does not improve confidence or transparency in the closure planning or regulation process. | • Outcomes-based conditions would be imposed on an Approvals Statement. As far as practicable, DMIRS will not duplicate assessment of any component of an activity that also requires approval from another regulatory agency.<br>• Outcomes-based conditions would be imposed on an Approvals Statement and a description of how these outcomes are being met and monitoring data would be provided to DMIRS through annual environmental reports.<br>• The Approvals Statement is proposed to include outcomes-based conditions relating to approved activities and closure outcomes. DMIRS has not proposed to include closure completion criteria and performance indicators. |

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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| | | • DMIRS should consider excluding mine closure completion criteria and performance indicator information from Approvals Statements to reduce the requirement to review and update Approvals Statements with each MCP update.<br>• Will the Approvals Statement list all of the commitments from the MDCP and all of the Environmental outcomes from the risk assessment?<br>• How will an Approvals Statement record the closure outcomes?<br>• Will the signing of the Approvals Statement be done under delegation from the Minister or will these require actual ministerial signed consent?<br>How will the conditions in the Approvals Statement relate to tenement conditions? Tenement conditions are specific and not based on outcomes or simply reference a Mining Proposal and Mine Closure Plan to be implemented. It is possible that tenement conditions will not align with the conditions in the Approvals Statement. | • The aspects that will be included on an Approvals Statement are listed at section 103AO of the Consultation Draft. An Approvals Statement will record: the approved activities and relevant attached conditions, any relevant information, closure outcomes, and the MCP review date. It is not proposed that all commitments from an MDCP would be included.<br>• The intent is that the signing of the Approvals Statement would be delegated to the Executive Director, Resource and Environmental Compliance Division DMIRS.<br>• The Approvals Statement will include outcomes-based environmental conditions specific to the activities proposed through an MDCP and approved. It will not duplicate tenement conditions |
| **76** | **Lindsay Stephens of Landform Research** | Good idea. What it should always have been. See above comments. I think some officers will find it difficult or not have the experience or expertise to generate the statements. They should be written by or reviewed experienced staff who have had extensive industry experience. Remember a lot of people have experience but not all will be suitable for that task. Remember driving the car from above. The key is to get to the destination safely not an exercise in identifying every step. Use Planning Law and processes or the EPA processes as a guidance. The Mining Proposal and Mine Closure must be consistent in terms and everything else. DMIRS and the Guidelines seem to think that a mine is opened and then closed. That is not correct. Mines are progressively opened and closed, and both the Mining Proposal and Mine Closure Plan are required concurrently so every table, term and everything else must be consistent across the documents. | Comments addressed above. |

| Division 5 - Mine Closure Plans | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **77** | **AusIMM** | Further to the Mine Development and Closure Proposal, the Bill introduces a further requirement to lodge a Mine Closure Plan dealing specifically with mine decommissioning, land rehabilitation and closure outcomes at a later stage in the operational life cycle. The date for lodging a Mine Closure Plan will be identified upon approval of the Mining Development and Closure Proposal.<br><br>AusIMM support the proposal to ensure a comprehensive Mine Closure Plan is provided at an appropriate point during the mining lifecycle, and agree that this plan should be based on the closure outcomes articulated at the time of lodging the Mine Development and Closure Proposal.<br><br>AusIMM recommend the Department develop, consult on and articulate a clear policy for identifying trigger points to audit and assess progress against the Mine Closure Plan. This is particularly critical given the Bill removes the current three-year automatic review timeline.<br><br>AusIMM appreciate that a case-by-case approach supports efficiency. We caution, however, that a transparent process and clear articulation of the financial, social, environmental and other risk factors to be weighed in monitoring mine closure is vital to ensure effective regulatory implementation and support community confidence. | Support noted. Should the amendments pass, DMIRS will review the supporting guidance for mine closure plans which would be subject to a public consultation process.<br><br>The review date set for mine closure plans would be determined on a case-by-case basis depending on the specific context and risks of the site. DMIRS acknowledges the need for transparency on these matters to support stakeholder confidence. |
| **78** | **CCAA** | CCAA understands that following the single MDCP there will still be a requirement for a separate Mine Closure Plan every 3 years. This will not reduce duplication of information and effort, but potentially cause issues with inconsistency, conflicting plans and commitments, etc. over time. DMIRS is proposing that the original combined MDCP will be a live approval document indefinitely, however the closure components of the plan will be superseded by later revisions of the separate MCP.<br><br>As the separate MCPs are reviewed and amended over time it is likely to cause issues by having obsolete and inconsistent closure information in the original Mining Development and Closure Proposal plan. CCAA recommends that the arbitrary revision term of 3 years for Mine Closure Plans should be replaced with a revision cycle that is dependent on where the project is in its life cycle. i.e., for long term projects that are in the early stages of development, the revision term should be 10 years, reducing to a revision term of say 3 years as the project approaches the end of its economic life. This should reduce the regulatory burden on industry and DMIRS alike and help reduce the significant back log of MCP revisions waiting to be assessed. To assist this CCAA recommends that the MDCP contain all the relevant closure issues in a discrete section so that only one section of the MDCP is superseded. CCAA recommends that the requirements by the Department of Water & Environmental Regulation and EPA on the timing and content of the regularly updated MCPs are aligned. This will result in real streamlining of administrative processes and a reduction in red tape and costs for industry. CCAA recommends additional industry consultation on the detail of the updated MCPs | The initial application through an MDCP would consolidate the current operational information detailed in a mining proposal and the rehabilitation and closure information detailed in a mine closure plan into a single document.<br><br>There will still be a requirement to submit a mine closure plan at the time stated on the Approvals Statement. The 3 year timeframe has been removed and it is intended that the review date would be set on a case-by-case basis.<br><br>Should the amendments pass, a more detailed and thorough review of the content requirements for an MDCP would be undertaken following passage of the Bill. This would be subject to further detailed consultation as part of developing subsequent Regulations and guidance. |

| Division 5 - Mine Closure Plans | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **79** | **CME** | CME support the removal of the legislative requirement for three-yearly review of Mine Closure Plans. Allowing the revision period and resubmission of a Mine Closure Plan to be more specifically linked to the mining operations lifecycle stage, risk profile, knowledge base, and overall mine life as proposed by DMIRS, is a more appropriate model and will ensure government and proponent resources are more appropriately allocated and efficiently used.<br><br>s103AS(3) CME does not support the Minister's unilateral power to vary the date recorded on an Approvals Statement by which a Mine Closure Plan must be lodged without prior consultation with the proponent. The proposed amendments and accompanying Consultation Summary provide no detail regarding the conditions under which the variation of this date would be warranted. CME understands proponents will be able to recommend to the Minister the date by which a Mine Closure Plan must be lodged however this ability is not provided for in the proposed amendments or the accompanying Consultation Summary. CME recommends the section be reworded to require the Minister to consult and reach agreement with the proponent prior to varying the date recorded on an Approvals Statement by which a MCP must be lodged.<br><br>CME understands DMIRS's intention is for approved Mine Closure Plans to be brought under the MDCP framework in the current standard 3-yearly Mine Closure Plan review (under tenement conditions). However, it is unclear how this may sit with Mining Proposals that do not come under the MDCP framework, be it either within a six-year transitional period or longer. | Support for removing the three-yearly review noted.<br><br>The mine closure plan review date would be set on a case-by-case basis depending on the scope and scale of activities, context of the site and associated risks.<br><br>For existing 'reviewed Mine Closure Plans', the review dates will remain as per tenement conditions. For those Mine Closure Plans that are submitted post the issuing of an Approvals Statement, the review date will be on the Approvals Statement. |
| **80** | **CME** | Mine Closure Plans will remain a separate planning document (not a compliance document that requires express "approval" from DMIRS prior to the commencement of any works).Mine Closure Plans will still be required to be submitted within three (3) years (or sooner) of an Approvals Statement being issued, and will be required to be maintained on an ongoing basis with the term of resubmission to be determined on a case-by-case basis. | A Mine Closure Plan will still be required to be submitted to DMIRS on the date recorded on the Approvals Statement. The 3 year timeframe has been removed and it is intended that the review date would be set on a case-by-case basis. |
| **81** | **DBCA** | Section 103AO<br><br>This section sets out the required content of an approvals statement and indicates that the statement must contain "the closure outcomes provided in the most recent mine closure plan." However, the mechanisms for approval of the 'latest mine closure plan' (for example plans submitted after the statement is issued) is unclear. Accordingly, it is requested that the process and requirements for approval of mine closure plans and transfer of approved closure outcomes to existing approval statements be made clearer.<br><br>DBCA, the Conservation and Parks Commission, and the Minister for Environment have an interest in ensuring that proposed changes to closure outcomes that were agreed at the time of Ministerial consent under Part III of the *Mining Act 1978* are suitably considered, noting that agreement to consent may in some cases by contingent on achievement of closure outcomes identified at the approval stage. | It is DMIRS' expectation that any discussions regarding the closure outcomes (including variations to outcomes) would be discussed with stakeholders prior to a mine closure plan being submitted for review. These matters should be addressed during the development and review of a mine closure plan. Where there are interactions with DBCA-managed lands, DBCA will be requested to provide advice on the mine closure plan.<br><br>DMIRS will continue to formalise such arrangements through the development of agreed administration procedures between both agencies. |

| Division 5 - Mine Closure Plans | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| | | Section 103AP<br><br>This section provides that tenement holders are informed of changes to approval statements made by the Minister for Mines, but makes no provision for the underlying landowner or government body responsible for the land to be consulted on, or advised of such variations. DBCA believes that the underlying landowners affected by mining are key stakeholders in relation to the approval and closure outcomes for mines and should be informed at key steps in the regulatory process.<br><br>Section 103AQ<br><br>This section (at sub section c) specified that the mine closure plan is to contain the closure outcomes for the mine, however it is not clear whether these outcomes must be consistent with the Mining Development and Closure Proposal, and/or the applicable approval statement/s.<br><br>The mine closure outcomes are fundamental to approval of a mine (and any relevant consents for mining in reserves provided with the agreement of other Ministers and authorities under Part III Division 2) and on that basis, this section should make clear that closure outcomes put forward within a mine closure plan must be consistent with the current approvals statement for the tenement/s and any relevant consents under that Division. As an alternative, if the mine closure plan becomes an application for approval of alterations to closure outcomes set out in the approval statement, there should be provision within the Bill, for consultation and agreement to such changes by the Ministers and management authorities responsible for any affected reserve lands, similar to the consent provisions under Part III of Division 2.<br><br>103AS<br><br>This section makes provision for the Minister for Mines (or delegate) to specify or vary that date required for submission of a mine closure plan and requires that the tenement holder is notified of the date (or date variation for plan submission).<br><br>It is recommended that underlying landholders (including relevant Ministers and public authorities) affected by mining tenements with active mines and subject to mine closure plans be consulted regarding variations to the timing of submission of a mine closure plan and notified of the Minister for Mines' decision. | |

| Division 5 - Mine Closure Plans | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **82** | **EGPA** | If you are in a known mining district then the closure plan should simply be for safe, stable, and non-polluting at closure. The best future use is further mining as conditions and economics evolve. The next tenement holder often wants to recommence mining. This happens all the time. The stakeholders are the mining industry. Involving many other so-called stakeholders, who have no skin in the game, is a recipe for disaster and a death by a thousand cuts to the mining industry.<br><br>Mine closure plans should therefore be simplified especially for the small mining sector.<br><br>In the past these documents have been combined and then in recent times separated and now proposed to be recombined again. Its good that they are proposed to be combined as in the past. Also please see our comments above especially on not having onerous requirements in known mining districts and localities | It is intended that the level of detail included in a mine closure plan would be commensurate to the types of activities proposed and context of the location of the site. |
| **83** | **Lindsay Stephens of Landform Research** | See all my comments above. The Mining Proposal and Mine Closure must be consistent in terms and everything else. DMIRS and the Guidelines seem to think that a mine is opened and then closed. That is not correct. Mines are progressively opened and closed, and both the Mining Proposal and Mine Closure Plan are required concurrently so every table, term and everything else must be consistent across the documents. There is an opportunity to get the process correct and reduce the hundreds of pages of guidelines. | The review of the Statutory Guidelines for Mining Proposals and Statutory Guidelines for Mine Closure Plans is outside the scope of these amendments however DMIRS notes this feedback for any future reviews of the Guidelines. Any future revisions to the Statutory Guidelines would be subject to a separate consultation process. |

| Division 6 - Other Conditions | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **84** | **CME** | s103AT(3) CME does not support the Minister's unilateral power to vary a condition on a mining tenement without prior consultation with the proponent. The proposed amendments and accompanying Consultation Summary provide no detail regarding the conditions under which the variation of a condition would be warranted. CME recommends the section be reworded to require the Minister to consult and reach agreement with the proponent prior to varying a condition on a mining tenement. | This section is a relocation of the existing provisions under the Act (see section 46A for example). The Minister retains the power to impose, cancel or vary conditions on a mining tenement. No amendments to the scope of this power are proposed as part of this Bill.<br><br>DMIRS will provide procedural fairness commensurate to the scale of the change to the Approvals Statement. Recommended conditions on the Approvals Statement would be provided to the tenement holder for an opportunity to comment prior to the Approvals Statement being issued. |
| **5** | **EGPA** | The Minister already has powers to impose or remove conditions on a tenement if he wishes and that should remain. | This section is a relocation of the existing provisions under the Act. The Minister retains the power to impose, cancel or vary conditions on a mining tenement. |

| Division 6 - Other Conditions | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **86** | **DBCA** | Section 103AT<br><br>Section 103 AT (1) (b), providing that conditions may be imposed on a mining tenement "*for preventing or reducing the impact of mining on the statutory or public purposes for which land to which section 24 or 24A applies is reserved or managed, or remediating such land*" is supported by DBCA in particular. | Support noted. |
| **87** | **Lindsay Stephens of Landform Research** | Fine if the points made above are considered. | Comments addressed above. |

| Division 7 - Securities | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **88** | **Lindsay Stephens of Landform Research** | Note: Relocates existing provisions to impose securities for compliance with conditions on the tenement, and updated to include the conditions on the Approvals Statement.<br><br>*Consequential amendments: deletion of s.52(1a), s.60(1a), s.70F(2) and s.84A(2); updated reference in s126.*<br><br>Fine if the points made above are considered. It also depends on the officer's ability. For example many tenements on limestone on the Swan Coastal Plain have conditions for salinity and watercourses. Common local knowledge or a look on an aerial photograph will show that these conditions are incorrect and do not apply to the site. | Comments addressed above. |

| Second Schedule - Division 3 - Transitional Provisions | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **89** | **AMEC** | The initial proposed six-year continuation of existing mining operations approved under a mining proposal from the commencement of this Bill was not supported. It is too short a timeframe, given the mining tenure length as prescribed by the Mining Act 1978 (Mining Act) is 21 years. AMEC recommends the transition period for existing mining operations approved under a mining proposal is extended to 21 years, to align with the Act against which our industry is regulated. The more consistency that can be provided to statutory timeframes, the more certainty both Industry and the Government will be provided with. We appreciate that following initial engagement, this recommendation has been reflected in the Further Information for Consultation that was released by DMIRS. This option will allow companies with existing approvals the confidence required to continue operations following the commencement of the Bill, and for the remaining tenure of the mining tenement they were granted. When the updated Consultation Draft is prepared, AMEC requests sufficient time to review this document, with members, to provide meaningful feedback. | The Department has received feedback from stakeholders that there are significant concerns regarding the proposed transitional provisions released in the Consultation Draft. As communicated at the information sessions and in the additional information sheet released during the consultation period, the Department has reviewed and revised the transitional provisions. The transitional arrangements will operate as follows.<br>• All 'previously approved mining proposals' will continue to be approved as they currently stand.<br>• The transitional provisions have been revised to reflect that the Department will issue an Approvals Statement to tenement holders of previously approved mining proposals over a period of 10 years, or an extended period subject to Ministerial decision.<br>• The Approvals Statement records information regarding the previously approved activities and relevant conditions of approval. As such there is no reassessment of previously approved activities.<br>• To afford procedural fairness, tenement holders will be offered an opportunity to review their Approvals Statement prior to it being formally issued. |
| **90** | **APLA** | There are also doubt within APLA that see the "6 year changeover" creating difficulties for current longer term mining operations being forced to switch the proposed Approval Statement. APLA is aware that there have been recent developments regarding the issue of the 6 year transition to MDCP/Approvals Statement system. We await further development and resolution of those issues. | |
| **91** | **CCAA** | CCAA strongly opposes the imposed transition of existing mining operation conditions into the new MDCP framework within 6 years of the amendments commencing. This proposal is NOT supported as it introduces unacceptable sovereign risk. CCAA understands that in the DMIRS Further Information for Consultation: June 2021 document, it is stated that DMIRS is currently exploring options to remove the transitional period and ensure all existing approvals of mining operations continue following the commencement of the Bill, for the remaining life of the mining tenement on which they were granted. Whilst CCAA recognises and supports DMIRS intention to remove the transition period and for existing mining operation approvals to continue, CCAA reserves its position on this point until a redrafted Bill covering this aspect is provided for comment. | |
| **92** | **CME** | Recommendation: Amend any transitional arrangements to ensure current approvals are maintained for the life of the tenement.<br><br>Under the Bill, DMIRS propose to require the transition of existing Mining Proposals under the new framework within six (6) years of commencement of the amendments, whereas existing PoWs are grandfathered but the Bill is silent on existing NOIs and Mine Closure Plans. CME understands the objective of this six-year transition is to push current Mining Proposals under the new Approvals Statement and MDCP framework, rather than grandfathering them. | |

| Second Schedule - Division 3 - Transitional Provisions | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| | | CME strongly oppose the mandatory transition of existing Mining Proposals and Mine Closure Plans under the new approval framework within six (6) years of commencement. This approach would impose an unreasonable and impracticable impost on proponents and regulator resources. The position for existing NOIs and Mine Closure Plans should also be clarified however CME similarly opposes shortening existing validity periods rather than grandfathering existing approvals.<br><br>In response to industry concerns, CME understands that DMIRS are investigating alternative transition arrangements, including the maintenance of all existing approvals of mining operations for the remaining life of the mining tenement on which they were granted. Such an arrangement is exceedingly more reasonable and achievable. CME recommends the transitional arrangements be amended to ensure all current approvals are maintained for the life of the tenement. | The Department has received feedback from stakeholders that there are significant concerns regarding the proposed transitional provisions released in the Consultation Draft. As communicated at the information sessions and in the additional information sheet released during the consultation period, the Department has reviewed and revised the transitional provisions. The transitional arrangements will operate as follows.<br><br>• All 'previously approved mining proposals' will continue to be approved as they currently stand.<br><br>• The transitional provisions have been revised to reflect that the Department will issue an Approvals Statement to tenement holders of previously approved mining proposals over a period of 10 years, or an extended period subject to Ministerial decision.<br><br>• The Approvals Statement records information regarding the previously approved activities and relevant conditions of approval. As such there is no reassessment of previously approved activities.<br><br>• To afford procedural fairness, tenement holders will be offered an opportunity to review their Approvals Statement prior to it being formally issued. |
| **93** | **Iluka Resources** | We strongly oppose the mandatory transition of existing approvals, including Notices of Intent (NOIs), Mining Proposals (MOPs), and Mine Closure Plans (MCPs), under the new approval framework within six (6) years of commencement. This approach would impose an unreasonable and impracticable impost on proponents and regulator resources. The transitional provisions don't appear to have taken into consideration the many operations that continue under Mine Closure Plans but for which Mining Proposals no longer exist (non-operational sites) due to completion of mining but necessity for ongoing rehabilitation. We recommend that DMIRS remove the Streamlining (Mining Amendment) Bill 2021 (the Bill) transitional arrangements in relation to activities approved via an existing MOPs, MCPs and NOIs to ensure current approvals are maintained for the life of the tenement/project and in its place include a Sunset Clause from which the new Act/Regulations will apply for future Mining Development and Closure Proposal. Any MOPs, MCPs and/or NOIs applications in existence at commencement of the Streamlining (Mining Amendment) Bill 2021 and/or subsequent Act/ regulations should also be recognised under the existing Act/Regulations. | |
| **94** | **EGPA** | To say ones fully legal and permitted approvals shall expire in six years is ridiculous. We believe that other sectors of the mining industry would agree with us on this. Business needs certainty in their investments. Approval once given should be permanent and not expire after 6 years. That would be an unacceptable sovereign risk. Already granted approvals should remain in force without any time limit. They have been legally granted. Retrospective legislation is a sovereign risk and a disincentive to invest in this State. | |
| **95** | **Lindsay Stephens of Landform Research** | Fine if the points made above are considered | |

| Second Schedule - Division 3 - Transitional Provisions | | | |
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| **Ref #** | **Stakeholder** | **Comment** | **DMIRS Response/Action** |
| **96** | **Northern Star Resources** | Northern Star strongly objects to the requirement for mining operation to be assessed through a MDCP after the six year transition and instead proposes the current approvals should remain valid for the life of the tenement. A method of transitioning existing approvals into the new format could be explored (similar to Mining Proposals being updated to the new 2020 guidelines), instead of requiring operations to be reassessed, as this presents unacceptable business risk. | The Department has received feedback from stakeholders that there are significant concerns regarding the proposed transitional provisions released in the Consultation Draft. As communicated at the information sessions and in the additional information sheet released during the consultation period, the Department has reviewed and revised the transitional provisions. The transitional arrangements will operate as follows.<br>• All 'previously approved mining proposals' will continue to be approved as they currently stand.<br>• The transitional provisions have been revised to reflect that the Department will issue an Approvals Statement to tenement holders of previously approved mining proposals over a period of 10 years, or an extended period subject to Ministerial decision.<br>• The Approvals Statement records information regarding the previously approved activities and relevant conditions of approval. As such there is no reassessment of previously approved activities.<br>• To afford procedural fairness, tenement holders will be offered an opportunity to review their Approvals Statement prior to it being formally issued. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| **97** | **CME** | Long-standing issues (and opportunities) need to be addressed In CME's view, the proposed streamlining amendments to the Mining Act do not in isolation achieve meaningful efficiency benefits. There are more immediate opportunities to reduce regulatory duplication and address long-standing, well-understood issues experienced by both industry and government regulators. Long-standing issues which need to be addressed as priorities include:<br>• Duplication of environmental assessment and compliance under the Mining Act and EP Act.<br>• Lack of flexibility of programme of work (PoW) approvals (IT) systems, and poor integration across corresponding IT systems.<br>• Inaccurate Landgate data informing DMIRS's assessments.<br>• Lack of clarity of compliance requirements under Mining Proposals and Mine Closure Plans.<br>• Lengthy end-to-end approval timeframes masked by inconsistent performance reporting.<br>• Lack of public and proponent transparency on certain documents and key information.<br>These priorities are explored further in this submission, with the intent to bring forward effective, practicable, and targeted streamlining opportunities. The Consultation Summary published in conjunction with the Bill is considered too high level and does not adequately explain the key issues the proposed reforms intended to address, how they will operate in practice, and in turn what efficiencies will result for proponents or the regulator. The Consultation Summary does not explore the potential and implications for other reform proposals or seek feedback from the wider regulatory community on practicable reform – be it legislative, policy, or administrative. CME also understands no detailed consultation occurred with other related regulatory agencies prior to release of the proposed reforms, which is entirely inconsistent with the stated objectives of the 'whole of government' Streamline WA program.<br><br>Subsequently released information shared by DMIRS during the consultation period, while providing some much-needed clarification, highlights fundamental issues with the applied process for drafting and lack of wider regulatory consultation. CME strongly recommends DMIRS undertake proper consultation to prioritise effective, practicable, and targeted streamlining opportunities – including both administrative and legislative – leveraging off the extensive identification of key issues and opportunities already undertaken under Streamline WA. Prioritised policy, administrative and IT system changes can be made now to deliver near-term streamlining benefits for low impact activities, improved clarity on compliance requirements and greater transparency. These streamlining measures could in the longer term be strengthened (where needed) through subsequent Act amendments, ensuring the opportunity is taken to clarify regulatory jurisdiction and remove unnecessary duplication when 'opening up' related Acts. Effective, practicable, and targeted streamlining opportunities CME supports streamlining reforms to achieve:<br><br>• Clear and common understanding of the regulatory remit for environment.<br><br>• Streamlined assessment and approval processes implementing a risk-based approach, supported by efficient IT systems, transparent procedures, and quality data.<br><br>• Clearly defined and transparent outcome-focused compliance requirements which facilitate adaptive management.<br><br>Numerous effective, practicable, and targeted streamlining opportunities exist, including policy, administrative and legislative reforms, to deliver reform objectives across short and longer-term timeframes (yet still achievable within this term of government). CME considers the majority of desired streamlining outcomes can be achieved through alternative means including administrative, policy, cultural or procedural reforms. This is supported by independent legal opinion. Administrative, policy, and procedural reforms should be prioritised in the first instance to address key issues with assessments and approvals under the Mining Act with legislative amendments adopted only when necessary, such as to address fundamental issues of jurisdiction and/or achieve improvements impracticable through non-legislative reforms. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| | | CME makes the following recommendations to address key concerns and priorities for streamlining reforms to the Mining Act:<br>• Broaden the remit for reform to include opportunities for meaningfully streamlining the Mining Act<br>• Undertake wholesome consultation on key issues, exploring reform proposals which are both administrative and legislative for effective, practicable, and targeted streamlining opportunities, leveraging off the extensive identification of key issues and opportunities already undertaken under Streamline WA.<br>• Clarify the regulatory remit of DMIRS and the Mining Act in respect of environmental matters to prevent duplication with the EP Act. This would ensure the Mining Act is used to regulate only those environmental matters not already assessed or approved under the EP Act, focusing purely on the specific environmental regulatory gap. This could be achieved in the short-term through priority revision of guidance (e.g. Mining Proposals), and in corresponding Act amendments. Streamline low-risk activity approvals<br>• Update DMIRS IT systems and administrative procedures to triage automatically the assessment of low risk activities and implement a risk-based, tiered approach to spatial PoW (PoW-S) applications. Streamline PoW approvals<br>• Revise the PoW process to remove unnecessary prescription and implement a tiered, risk-based system approach.<br>• Develop technically-focussed guidance on PoW applications and approvals in consultation with industry.<br>• Update the PoW-S system to allow amendments to applications.<br>• Update the PoW-S system to allow submission of applications for miscellaneous licences.<br>• Amend DMIRS IT systems and internal procedures for PoW applications to remove the regulatory duplication of heritage approvals.<br>• Implement outcome-based tenement conditions<br>• Implement improvements to the drafting of tenement conditions to reflect an outcome-based approach (rather than referencing application documents in their entirety which creates unnecessary compliance burden and ambiguity). This could be achieved immediately by policy.<br>• Improve DMIRS's online system to enhance public transparency of tenement conditions including extraction reports of conditions across tenements in a user-friendly interface, and public provision of other documents or information currently not in the public domain. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| **98** | **CME** | Lack of flexibility of approval systems<br><br>DMIRS internal IT systems and administrative procedures unnecessarily constrain a proponent's ability to amend an approved PoW or a PoW application in progress. Proponents are currently required to submit a new PoW application where minor amendments to the content of an approved PoW are required to reflect updated survey information, changes in equipment, or modifications to the disturbance footprint (including reduced disturbance). Where these changes are required for a PoW application in progress, withdrawal and resubmission of a whole new PoW application are required.<br><br>For example, a proponent is required to submit an entirely new PoW application to amend the approved disturbance footprint to avoid newly identified heritage sites or make last-minute changes to the drilling equipment to be used, even when the total approved clearing limit is unchanged or reduced.<br><br>The lack of flexibility in the PoW IT systems and DMIRS's internal procedures places an unnecessary administrative burden on proponents and government and does not represent risk-based and outcomefocused regulation. Importantly, these issues can be addressed through non-legislative reform to DMIRS internal IT systems and administrative procedures.<br><br>1.1.2 Inaccurate Landgate data informing assessments<br><br>Landgate's Spatial Cadastral Database is currently used by DMIRS to inform the assessment of impacts of activities proposed in PoWs and Mining Proposal applications. Industry has consistently advocated for the revision and update of the Landgate Database to address long-standing issues with data inaccuracy which needlessly impacts project approvals.<br><br>Example 1: The Landgate Database contains location data for historical towns which no longer exist, as confirmed by ground-truthing. Nevertheless, when a proponent submits a PoW application which intersects with the area of a historical town marked in the Landgate Database, the proponent is required to needlessly amend planned works to avoid a town that does not exist. This data and IT constraint effectively sterilises whole areas of exploration licences.<br><br>Example 2: Proponents are required to ensure polygons submitted for proposed disturbance areas do not intersect with rail infrastructure or rail tenure. However, the Landgate Database only provides data for rail infrastructure, not rail tenure (note: the footprint of the two are not always the same). Consequently, it is not possible for proponents to submit a PoW application which is compliant with DMIRS's procedural requirements due to insufficient data.<br><br>Example 3: The use of existing access tracks is highly preferable to reduce the environmental impact associated with the need for additional clearing of native vegetation, and consequently minimise the total cleared area accounted for by a proponent. However, due to the inadequate access track data used by DMIRS, proponents are forced to obtain clearing approval for the use and maintenance of existing tracks. Proponents are consequently required to contribute funds to the Mining Rehabilitation Fund for the original clearing (for which they are not the responsible party) and are made responsible for the eventual rehabilitation of the track.<br><br>Similar issues with other inaccurate datasets such as heritage locations and environmental features also exist.<br><br>The use of inaccurate data to support assessment of PoW and Mining Proposal applications results in unnecessary delays to approvals, additional costs, and added administrative burden for proponents and regulators. While it is acknowledged that DMIRS has no responsibility or direct influence over Landgate's data, CME considers there to be a clear benefit to DMIRS engaging in a process to improve the quality of this vital source data – potentially under the auspices of Streamline WA. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| **99** | **CME** | 1.1 Recommended solutions<br><br>The following reforms are recommended to address the aforementioned key issues. These reforms are proposed as a package to be implemented in a staged approach to deliver streamlining benefits in the nearterm while more fulsome, fundamental regulatory streamlining is progressed across the longer-term.<br><br>1.2.1 Clarify environmental regulatory remit and prevent duplicative regulation<br><br>*Deliver streamlining benefits through administrative reforms in the near-term and legislative amendments in the longer-term*<br><br>Environmental impacts associated with mining activities are expressly regulated under the EP Act, the State's primary environmental legislation. The Mining Act clearly contemplates under section 6(1) that the Act is be read and construed subject to the EP Act, to the intent that if a provision of the Mining Act is inconsistent with a provision of the EP Act, the EP Act shall prevail. Hence, any regulation of environmental impacts through the Mining Act should clearly and expressly only address any regulatory gap (to the extent that it exists) and not duplicate regulation already enforced through the EP Act.<br><br>In particular, there is regulatory duplication for mining activities that have been assessed and authorised under Part IV of the EP Act by Ministerial Statement following EPA assessment of key environmental factors (including clearing). Despite this assessment, these projects are still subject to environmental assessment under the Mining Act, in respect of a PoW or Mining Proposal, prior to ground disturbing works including over-assessment of minor details that do not alter environmental outcomes.<br><br>Such unnecessary regulatory duplication results in significant additional regulatory burden to proponents, increased cost, and extended approval timeframes for no improvement in environment outcomes. Furthermore, this duplication diverts DMIRS resources from the delivery of core business and the management of higher risk activities that are not already being regulated by other agencies (such as progressive rehabilitation of native vegetation).<br><br>CME recommends the regulatory remit of DMIRS and the Mining Act be clarified in respect of environmental matters to prevent duplication with the EP Act, including that where mining activities have been assessed and approved under the EP Act that those activities are not subject to further environmental assessment and regulation by DMIRS.<br><br>The revision of DMIRS guidance documents can deliver on this objective in the near-term. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| **100** | **CME** | Improve flexibility of the PoW approval process<br><br>*Administrative reforms delivering streamlining benefits in the near-term*<br><br>Improvements to the flexibility of the PoW process are necessary to deliver practicable and sustainable regulatory streamlining outcomes. These improvements can be facilitated through non-legislative amendments to DMIRS internal IT systems and administrative procedures.<br><br>Updates to DMIRS IT systems and administrative procedures can deliver considerable efficiency gains for spatial PoWs through the automation of the assessment of applications against pre-defined criteria and subsequent streamlined assessment of low-risk activities. This process would facilitate a 'triage' process for applications, whereby PoW-S applications are submitted online and undergo an initial, automatic assessment against pre-defined criteria, applications are then categorised as either low, medium, or high risk, and subsequently enter different assessment 'streams' based on risk whereby low risk applications have a quick turnaround and standardised conditions from a known conditions bank.<br><br>This approach effectively delivers on the intent of the LIN framework and can be implemented in the short-term without legislative amendments. Public consultation would be required on the pre-defined criteria used to categorise assessments based on risk and could be defined in guidance before being embedded in the PoW-S IT system. Again, consideration would need to be given to ensure exemptions under the EP Clearing Regulations would still apply.<br><br>CME recommends update to DMIRS IT systems and administrative procedures to automate assessment of low-risk activities and implement a risk-based approach to PoW-S applications.<br><br>Another quick efficiency improvement can be delivered through amendment to DMIRS's PoW approvals procedures to remove prescription and reflect a risk-based, outcome-focused approach.<br><br>Over time PoW applications have evolved to require more specific and prescriptive detail, including for example the number of sumps and pads, the length and width of a track, or the specific drill rig type to be used. None of this prescription is required by the Act. Any slight change to the project design, including changes to equipment, requires a new PoW application to be submitted and approved prior to commencing works.<br><br>The overly prescriptive nature of PoW application requirements, and consequently the PoW approval, unnecessarily constrains proponents in the implementation of approved projects, and runs contrary to best practice environmental adaptive management frameworks. PoW approvals should focus on a risk-based, outcome-focused approach, with conditions to regulate the environmental outcome as a whole. Changes to project design and equipment which are not material to the environmental outcome should not require reapproval.<br><br>CME recommends revision of the PoW approvals process to remove unnecessary prescription and implement a risk-based, outcome-focused approach.<br><br>Current IT system limitations that prohibit minor amendments to an application have not been resolved despite this issue being recognized for some years and based on earlier advice from DMIRS, contributes to an almost 50% withdrawal and re-submission rate for PoWs. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| | | CME recommends the PoW-S system be updated to allow amendments to applications, rather than force withdrawal and resubmission.<br><br>Additionally, a lack of functionality in the PoW-S system prohibits the lodgment of PoW-S applications for miscellaneous licences. This presents another simple opportunity for short-term streamlining gains for industry and regulators through non-legislative reforms.<br><br>CME recommends the PoW-S system be updated to allow submission of applications for miscellaneous licences.<br><br>DMIRS's policy for treatment of heritage and section 18 approvals (now enacted through the PoW-S system) also creates administrative inefficiency and should be removed. It remains the proponent's responsibility to address heritage (and other) regulatory requirements and DMIRS should not artificially introduce "gates" or "holds" for other regulatory processes outside its remit (note: Native Title Act 1993 processes are clearly an exemption as these are fundamental to tenure-related processes and Future Act requirements).<br><br>CME recommends DMIRS IT systems and internal procedures for PoW applications be amended to remove the regulatory duplication of heritage approvals.<br><br>CME and its members have previously raised the need for published technical guidance for PoWs with representatives from DMIRS. Ensuring clarity of requirements through provision of technically-focused guidance would reduce the amount of re-work required by both industry and government, leading to an overall improvement in application quality and more timely assessment. Additionally, it would promote greater consistency by DMIRS personnel, further reducing re-work and aiding industry understanding of requirements.<br><br>Of particular importance for inclusion in guidance are the following:<br><br>• PoW application requirements – what must be included in an application?<br><br>• Navigation of the PoW-S system – how do I apply?<br><br>• An assessment checklist for PoW applicants.<br><br>• Practical compliance guidance for standard tenement conditions.<br><br>• Rehabilitation guidance clarifying timeframes, triggers, and the process for applying for an extension.<br><br>• Requirements for Exploration Environmental Management Plans and Annual Exploration Environmental Reports.<br><br>• Renewal and amendment process for PoWs.<br><br>CME is aware of earlier draft versions of PoW guidance that were not formally published for consultation or finalised yet have been used informally from time to time to assist some applicants prepare PoW submissions.<br><br>CME recommends technically-focused guidance for PoW applications and approvals be developed by DMIRS in consultation with industry proponents. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| **101** | **CME** | Key issues<br><br>The following key issues are experienced by the resources industry as users of the Mining Act. Opportunities currently exist for addressing these issues through administrative and other non-legislative reforms to deliver efficiency gains for industry and regulators in the near-term.<br><br>CME are committed to working with government to deliver on mutual reform objectives and realise material regulatory streamlining benefits, while maintaining good environmental outcomes, as efficiently as possible.<br><br>i. Duplication of clearing assessment / approval<br><br>Where proponents have an existing Ministerial Statement (which permits a development envelope to exist across multiple tenements), CME members are currently<br><br>required to seek amendments to Mining Proposals to shift activities across tenement boundaries even when these have no different environmental impact and can still be<br><br>managed entirely within the existing EP Act clearing constraints, development envelopes and other environmental conditions.<br><br>ii. Lack of clarity of compliance requirements<br><br>Currently, conditions of approval for a mining project are not captured in any one place, instead they exist under tenement conditions on individual tenements (of which there can be several) and are captured in the detail of Mining Proposals and associated Mine Closure Plans (of which there can also be several). Furthermore, there exists a lack of clarity for proponents as to:<br><br>• What constitutes an approval condition in an approved Mining Proposal and Mine Closure Plan given the documents in their entirety are referenced in tenement conditions, and<br><br>• How these change or are superseded by Mining Proposal revisions.<br><br>The lack of user-friendliness of DMIRS IT systems further compounds the issue of compliance clarity and negatively impacts perceptions of transparency of approvals – particularly for members of the public who may infrequently access these IT systems. It is not easy for proponents or the public to navigate DMIRS IT systems to access relevant conditions for approved mining activities across multiple tenements, and systems lack the core functionality to view or generate outputs which consolidates all conditions of approval for a mining project.<br><br>b. Recommended solutions<br><br>The following reforms are recommended to fundamentally address the aforementioned key issues. These reforms are proposed as a package to be implemented in a staged approach to deliver streamlining benefits in the near-term while more fulsome, fundamental regulatory streamlining is progressed across the longer-term.<br><br>i. Clarify environmental regulatory remit and prevent duplicative regulation |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| | | *Deliver streamlining benefits through administrative reforms in the near-term and legislative amendments in the longer-term*<br><br>Refer to Section 1.2.1 Clarify environmental regulatory remit and prevent duplicative regulation.<br><br>The Mining Act is fundamentally tenure-focused, whereby the ultimate penalty is forfeiture of tenure. As such, to be able to approve clearing for certain activities and monitor compliance with approved limits, limits by activity must be linked to individual tenements. Approvals Statements will not consolidate total limits across multiple tenements and consequently will not address this key issue of flexibility for proponents to effectively manage disturbance within a development envelope. It is important to note that clearing of native vegetation is regulated by the EP Act but in a manner that allows flexibility across mining tenements within environmental constraints – unlike the hectare limits per tenement applied by DMIRS.<br><br>CME recommends the Mining Act be amended to clarify the jurisdiction of DMIRS and the Mining Act with regards to environmental matters, such that where proponents are operating under approvals under the EP Act that these aspects are expressly out of DMIRS's regulatory scope. In particular, DMIRS should not constrain activities by hectare by tenement in the current manner as this removes crucial flexibility for proponents operating across multiple tenements.<br><br>The revision of DMIRS guidance documents can deliver on this objective in the near-term.<br><br>ii. Outcome-based tenement conditions<br><br>*Administrative reforms delivering streamlining benefits in the near-term*<br><br>Currently, under the Mining Act conditions may be imposed for the purpose of preventing or reducing, or making good, injury to the land in respect of which a tenement is sort or granted, or to condition the use of ground disturbing equipment in accordance with an approved PoW or Mining Proposal. As such, legislative amendments are not required for DMIRS to implement immediate improvements to the drafting of outcome based tenement conditions to make clear the conditions of approval of a Mining Proposal and associated Mine Closure Plan.<br><br>The introduction of an Approvals Statement is therefore not necessary to achieve the objective of clarifying conditions of approval and implementing outcome-based tenement conditions.<br><br>Crucially, as DMIRS intends the Approvals Statement to mirror the content of the existing approvals letters, DMIRS officers already invest the time and effort to determine the most relevant aspects of Mining Proposals and Mine Closure Plans (including any relevant triggers for resubmission and amendments) and hence could already convert that information into tenement conditions rather than refer instead in the tenement condition to the Mining Proposal in its entirety. Hence, the majority of the stated benefits of the Approvals Statement could be immediately achieved without the need for Act amendments.<br><br>CME supports the immediate implementation of improvements to drafting of tenement conditions to reflect an outcome-based approach rather than referencing Mining Proposals in their entirety. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| | | By providing this efficiency and clarification through improved administration immediately, further consultation on the appropriate scope and content of any further reforms (such as production of an Approvals Statement) could be properly assessed in consultation with other relevant government departments in order to resolve issues of jurisdictional duplication. Consequently, CME does not support the implementation of an Approvals Statement as a priority at this stage.<br><br>2.2.4 Administrative changes to improve public transparency<br><br>Administrative reforms delivering transparency benefits in the near-term<br><br>Administrative changes to DMIRS's IT systems and internal procedures can be implemented immediately to deliver on the objective of improved public transparency of approvals.<br><br>CME recommends DMIRS's online system be improved to enhance public transparency of tenement conditions including extraction reports of conditions across tenements in a user-friendly interface.<br><br>DMIRS has also advised that Approvals Statements are required through an Act amendment to improve public transparency as the approval letters (on which the form and contents of an Approvals Statement will be mirrored) are not currently made publicly available by DMIRS. It is unclear however why options to make these letters (or their relevant contents) publicly available have not been investigated as an alternative to Act amendments – given the letters are based upon information contained within Mining Proposals and Mine Closure Plans, both of which are already made publicly available. If an appropriate option for public availability of this information was implemented this would address DMIRS's concerns regarding public transparency without requiring Act amendments |
| **102** | **CME** | Key issues<br>The following key issues are experienced by the resources industry as users of the Mining Act. Opportunities currently exist for addressing these issues through administrative and other non-legislative reforms to deliver efficiency gains for industry and regulators in the near-term.<br><br>CME are committed to working with government to deliver on mutual reform objectives and realise material regulatory streamlining benefits, while maintaining good environmental outcomes, as efficiently as possible.<br><br>i. Duplication of environmental impact assessment under EP Act<br><br>Regulatory scope creep has resulted in the duplication of environmental impact assessment of mining operations under the Mining Act in addition to that required by the EP Act. Currently, proponents are required to provide baseline environmental survey information and environmental risk assessments to support Mining Proposal and Mine Closure Plan applications, the same information and assessment undertaken for approvals under the EP Act but reformatted to adhere to DMIRS templates.<br><br>As the State's primary environmental regulators, the environmental professionals within DWER and the EPA are well equipped to undertake environmental impact assessments as part of their core business model. The duplicative assessment of environmental impacts of mining projects under the Mining Act does not reflect an effective or efficient use of limited government resources, nor does it represent best practice regulation.<br><br>Although DMIRS has taken steps in recent years through updates to its Mining Proposal Guidelines to allow proponents to more clearly refer to other regulatory instruments so that DMIRS may recognise and align with other regulatory requirements (most notably through Ministerial Statements under Part IV and approvals under Part V of the EP Act, and Rights in Water and Irrigation Act 1914 approvals), this process is unnecessarily administrative and still imposes costs (financial, time, compliance and other costs) on both government and proponents that can be avoided entirely, if the environmental jurisdiction of DMIRS is instead clarified. |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| | | An amendment could be included in the Mining Act to provide that Mining Proposals need not address environmental matters for activities subject to EP Act approvals.<br><br>3.1.2 Lengthy approval timeframes<br><br>The proposal to combine the content of Mining Proposals and Mine Closure Plans into a single MDCP presents a significant risk of increased approval timeframes.<br><br>Currently, some proponents need to frequently update Mining Proposals (for example, every six (6) months) due to the prescriptive nature of Mining Proposals, their rapidly evolving operations and mining planning changes, combined with the complexity of their specific tenure arrangement. Furthermore, proponents are experiencing ongoing delays to Mining Proposal approvals, with at least one member company receiving no correspondence from DMIRS since submission of a Mining Proposal amendment six (6) months ago.<br><br>Many proponents also experience significant delays (often in excess of 18 months) in receiving a response from DMIRS on submitted Mine Closure Plans. One member company has not received formal approval or substantive feedback from DMIRS on a Mine Closure Plan submitted in 2013, nor on any of the subsequent triennial revisions in the intervening period.<br><br>Under the proposed amendments, a MDCP is to contain the following information:<br><br>• Proposal description.<br>• Legislative framework.<br>• Land uses and stakeholder engagement.<br>• Baseline data and analysis.<br>• Risk assessment and management.<br>• Environmental and closure outcomes, measurement criteria and monitoring.<br>• Closure implementation.<br>• Financial provisioning for closure.<br><br>The amalgamation of the core aspects of a Mining Proposal and Mine Closure Plan cannot deliver substantial or sustained streamlining benefits unless the fundamental issues underlying existing, persistent delays to approval timeframes is addressed, particularly noting the disparate delays associated with closure related aspects.<br><br>The lack of whole-of-government reporting on approvals timeframes, inconsistent performance reporting across agencies, and use of the 'stop-the-clock' mechanism masks the lengthy end-to-end approvals timeframes currently experienced by proponents.<br><br>3.2 Recommended solutions |

| Other Comments<br><br>DMIRS Response/Action: DMIRS welcomes these comments, noting the scope is outside the drafting of the Streamlining (Mining Amendment) Bill 2021. DMIRS will respond separately and directly on these matters. This feedback will be considered as part of ongoing business improvement programs. | | |
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| **Ref #** | **Stakeholder** | **Comment** |
| | | The following reforms are recommended to fundamentally address the aforementioned key issues. These reforms are proposed as a package to be implemented in a staged approach to deliver streamlining benefits in the near-term while more fulsome, fundamental regulatory streamlining is progressed across the longer-term.<br><br>3.2.1 Clarify environmental regulatory remit and prevent duplicative regulation<br><br>Deliver streamlining benefits through administrative reforms in the near-term and legislative amendments in the longer-term<br><br>Refer to Section 1.2.1 Clarify environmental regulatory remit and prevent duplicative regulation.<br><br>CME supports proposed amendments to s70O to remove reference to guidelines. This amendment provides greater clarity in defining what constitutes the application document and enables consideration of impact assessments under other legislation, thereby facilitating regulatory streamlining and clarification of DMIRS jurisdiction. This would then clearly enable DMIRS to modify their existing guidance to remove whole sections that duplicate existing requirements under the EP Act. Additionally, the proposed changes remove the need for "statutory guidelines" and reduce risks to security of title that may stem from these statutory guidelines.<br><br>CME strongly recommends the clarification of the regulatory remit of DMIRS and the Mining Act and the express removal of duplication with the EP Act – both in legislation and accompanying guidance. A clear opportunity exists in the near-term for DWER and DMIRS to collaborate to ensure newly drafted regulations and guidance corresponding to the recent EP Act amendments fundamentally clarifies jurisdiction. The revision of DMIRS guidance documents can deliver on this objective in the near-term. |

Government of Western Australia

**Department of Mines, Industry Regulation and Safety**

8.30am – 4.30pm

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