



Environment Institute
of Australia and
New Zealand Inc.

15/09/2023

Via email to:

environment.policy@nt.gov.au

Dear Sir/Madam

Re: Submission to the Environmental Mining Reform Program – EP Act amendments

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

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

The broad agenda of the EIANZ is to ensure that policy is not only underlined by the principles of sustainability but also that it is practical: it is EIANZ members that we be required to operationalize environmental policy.

The NT EIANZ Division has a keen interest in environmental policy and legislation development and appreciates the invitation to make a submission. In the last 9 years, the Northern Territory EIANZ (EIANZ NT) has made submissions to 22 government guidelines, regulations, policies and papers that have been open for public comment.

Background and General Comments

Since 2016¹, EIANZ NT has been an advocate for reforming the environmental approvals process in the NT, in particular in the mining sector. EIANZ NT was delighted when the Environment Protection Bill was drafted in 2018, stating at the time that the *current processes have amplified the distrust the community has of industry and the industry on government process and the non-transparency of the current process has allowed unsubstantiated allegations of impact and environmental mismanagement to thrive, resulting in entire industry sectors being dragged into ill-deserved disrepute.*²

EIANZ NT is delighted to now see the reform of the *Mining Management Act 2001 (MMA)*, which did neither the industry nor community any favours.

Noting some of the concerns from the 2021 *Submission to the Regulation of mining activities Paper* have been addressed and resolved, below are summarised the thoughts on the proposed amendments.

¹ EIANZ NT response to *Comment on Draft advice - Response to Dr Hawke's review 2016*

² EIANZ NT submission to draft Environment Protection Bill and draft Regulations.

Response Summary

- We welcome this reform and acknowledge that it addresses many of our concerns from our 2016 and 2018 submissions. In particular we support:
 - The separation of mining regulation from mining promotion.
 - The publication of licenses, license conditions and plans.
 - Bringing mining licensing into the *Environment Protection Act 2019* (EP Act) with the Environment Minister licensing mines.
 - Auditing of mining compliance being undertaken by a department separate from the mines department.
 - Establishing standard conditions. Several EIANZ members have worked with these in other jurisdictions and are fully supportive of their adoption in the NT. Getting this right in the NT context is critical.
 - Risk-based tiered approach to licensing, allows for an appreciation of the differing impact profile between mines. In addition, along with the standard conditions and general environmental duties, allows all key stakeholders to focus on issues of importance.
 - Defined timelines for licensing. We would like to see annual reporting on progress to meeting these timelines.
 - Security requirements to be determined by a department separate from mining.
- What we are unsure about is:
 - Resourcing these reforms. Flagged by EIANZ in the 2016 submission as an issue. This is of particular concern if the proposed environmental (mining) license timeframes are to be met.
 - While we support a risk-based tiered approach we feel that tiers should also dictate the level of community involvement.
 - To ensure community input to decision-making (in line with the NT EPA's *Guidelines for Proponents on Community Engagement 2021*), licences should include a requirement to prepare ongoing communication and engagement strategies, including for mine closure and rehabilitation. This should take account of the NT EPA's recommendations for engagement and communication with affected Aboriginal peoples.
 - Substantial disturbance:
 - EIANZ likes the concept of substantial disturbance; however, it really requires further detail. The concern related to the guidelines stating that *activities that may cause 'substantial disturbance' will be identified*, we would argue that it is not only the activity but where and on what the activity occurs that might lead to 'substantial disturbance'.
 - Substantial disturbance will *reflect matters that apply in the existing MMA*. As this is a new piece of legislation and the MMA is 22 years old, these matters probably should be reconsidered.
 - Exploration projects only require an environmental (mining) licence if the exploration activity involves 'substantial disturbance'. In these instances, they will be required to conform to 'general environmental duties'. It is important that these circumstances are clearly articulated and environmental duties clearly defined.
 - While we support the concept of general environmental duties, we need further detail before we can endorse it. We hope that there will be consultation as these are being developed.

- Environmental (mining) licences
 - EIANZ would like more detail of what is to be contained in the environmental (mining) licence. The assumption is that it would contain approval conditions and a monitoring/auditing/reporting schedule, but there are concerns that its focus will be the biophysical and not related economic and social outcomes.
 - The E2 factsheet states: *Environmental (mining) licences will be granted for the duration of the proposed mining activities and will be transferrable on application to the Environment Minister. We are unsure of under what circumstances this would happen.*

Future engagement

The next steps of this reform require further work on the standard conditions, content of the licences etc, EIANZ NT look forward to working with the NTG on this. Can we recommend future engagement on these reforms involves the NTG preparing and sharing supporting documents and then later – after a sufficient time - having workshops with key stakeholders.

In conclusion

In conclusion, EIANZ NT would like to congratulate the NTG for the continuing reform process and appreciate the opportunity to make a submission to this reform. As EIANZ NT members and associates will be implementing these reforms we look forward to collaborating with the NTG for the items we have flagged above.

Yours sincerely,



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