Revised risk criteria and standard conditions for exploration and extractive operations (2025)

Feedback summary report

NORTHERN TERRITORY GOVERNMENT

Document title	Revised risk criteria and standard conditions for exploration and extractive operations (2025)
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Acronyms	Full form
DLPE	Department of Lands, Planning and Environment
DME	Department of Mining and Energy
EP Act	Environment Protection Act 2019
RC	Risk criteria / Risk criterion
SC	Standard conditions / Standard condition

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Note

References to risk criterion (RC) or standard condition (SC) numbers refer to the draft revised version (as publicly exhibited).

1. Introduction

On 1 July 2024, the regulation of mining activities in the Northern Territory transferred from the former *Mining Management Act 2001* (MMA) to the *Environment Protection Act 2019* (EP Act). The Environment Minister subsequently declared risk criteria (RC) and approved standard conditions (SC) for exploration and extractive operations.

Under the EP Act's mining licencing framework, RC and SC inform the type of environmental (mining) licence a proposed mining activity (project) will require. For example:

- Standard condition licence: project must meet all RC and SC.
- Modified condition licence: project must meet all RC and may vary the SC it cannot meet.
- Tailored condition licence: project cannot meet all RC.

Since their introduction, opportunities to improve the RC and SC to refine and further streamline the licence application process have been identified, based on departmental experience and industry feedback.

Accordingly, draft revised RC and SC for exploration and for extractive operations were developed by the department in consultation with key industry representative organisations and publicly exhibited in accordance with legislative requirements[1].

The draft revised RC and SC were published on the NT Government's Have Your Say (HYS) website for seven weeks, from 17 June 2025 to 4 August 2025.

2. Overview of feedback

Overall, the department received 20 submissions (15 letters, 4 comments, 1 telephone call), from industry representative groups (5), operators (10), other stakeholder groups (3) and independent members of the public (2).

The majority of feedback received regarding the proposed changes to the RC and SC was supportive, but reflected common misunderstandings likely due to the limited guidance material available. Submissions were generally positive regarding the formatting changes, and inclusion of explanatory text in the sidebar. Submissions were also received that proposed (new) additional changes to the RC and SC.

The matters most commonly raised in submissions, as discussed in the following sections, related to:

- the size (numeric value) of excavation disturbance thresholds
- inclusion of tracks in the surface area disturbance thresholds
- native vegetation buffer requirements
- treatment of projects involving the Alligator Rivers Region (ARR), uranium and naturally occurring radioactive materials (NORMs)
- retention of infrastructure at the landholder's request
- other environmental considerations.

[1] Sections 124V and 124W of the EP Act, and regulations 233G and 233J of the *Environment Regulations 2020*.

The level of detail provided in submissions ranged from brief to detailed and consideration has been given to all comments. Some of the submissions related to matters beyond the scope of the RC and SC (see Section 10), including in relation to the overall licensing regime and suggested opportunities for future improvement. Some submitters also referred to their earlier correspondence regarding the mining reforms.

This report provides an overview of the submissions received and considered responses.

3. Excavation thresholds

Exploration:	*(RC 2.ii) The mining activity must not cause… the excavation of more than 1,000 tonnes (**1,000t**) of material, excluding drilling and excavation of bulk samples.*
Extractive operations:	*(RC 2.ii) The mining activity must not cause… the extraction of more than 100,000 tonnes (**100,000t**) of material per annum.*
	*(RC 2.iii) The mining activity must not cause… the excavation (excluding drilling) of more than 2**m** in depth from the natural surface of the land if the mineral title is an extractive mineral permit (EMP).*
	*(RC 2.iv) The mining activity must not cause… the excavation (excluding drilling) of more than **10m** in depth from the natural surface of the land if the mineral title is an extractive mineral lease (EML).*
Implication:	Under a standard licence, the respective thresholds must not be exceeded; to do so will require a tailored licence.

The draft revised RC and SC do not propose any changes to the thresholds relating to the amount of material that can be excavated, or the depth of excavation on an EMP or EML, without triggering a tailored condition licence (including public exhibition and a longer statutory assessment period).

All exploration industry responses advocated that the 1,000t threshold was insufficient, suggesting that it be increased to align with operational realities (e.g. to 2,000t), or exclude sumps (noting these are commonly located within the drill pad disturbance footprint), or that the criterion be reclassified as a standard condition (to avoid forcing low-risk, strategically important projects into a lengthy process).

Extractive industry responses advocated that the 100,000t threshold should be increased to 250,000t; and the 10m depth on EMLs be increased to 20m, particularly for sand mining. Industry reasoning included that the current limits exclude the majority of sand deposits in the Northern Territory, given surface sand resources are rare (especially taking into account riparian exclusion zones) and access to most deposits requires the removal of 4-10m deep overburden; ultimately using up tonnage and triggering longer assessment periods, thereby slowing potential investment (without changing the amount of material sold) and ultimately penalising operators for extracting material that has no economic value (citing the example that approximately 40% of material is not suitable and needs to be screened out and returned to the pit).

No other groups provided comments specifically regarding disturbance thresholds.

Response

- The intent of the excavation threshold RC is not to double-up on the surface area disturbance limitation imposed by the 10ha threshold RC, rather to limit the amount of material displaced (e.g. the greater the quantity of disturbed material, the greater the environmental impact and potential for dust generation or sediment runoff).
- From an environmental impact perspective, volume is more meaningful than mass; and the purpose of the RC is to manage environmental impact risks.

- Notably, production reporting (separate from the licencing process) uses tonnes (and excludes overburden); whereas the approved security calculation tool (for licencing) uses cubic meters (and includes overburden).
- Review of all extractive operations production data reported between 2021 and 2025 indicate that 70% of crushed rock samples were under 100,000t and over 99% of samples for all other material types (soil, sand, gravel, dimension stone) were under 100,000t. However, this does not take into account overburden.
- Conversion of mass to volume must take density into account, and density differs between material types. For example, $1m^3$ of crushed rock weighs more than $1m^3$ of sand; but 100,000t of sand will take up more space than 100,000t of crush rock. Therefore, conversion of a singular mass threshold (for all material types) to a singular volume threshold (for all material types) is not possible, and a 'best fit' approach is required.
- The *Mineral Titles Act 2010* (MTA) authorises extraction of extractive minerals from the natural surface of the land (i.e. 2m, in practice) within an extractive mineral permit, but does not impose a depth threshold for extractive mineral leases.
- The environmental risks associated with excavating to a depth greater than 2m can be appropriately managed by existing standard conditions.
- **Outcome:** Overall, taking into account the meaningfulness of volume, other variables relating to overburden and material density, existing data, and the protections afforded by the standard conditions; the following is considered appropriate:

  Exploration:

  Change the excavation threshold to $1{,}000m^3$.

  Extractive operations:

  - Change the excavation threshold to $100{,}000m^3$.
  - Retain the risk criterion regarding depth on an EMP.
  - Remove the risk criterion regarding depth on an EML.

4. Surface area thresholds and tracks

Exploration:	*(RC 2.i) The mining activity does not cause... substantial disturbance of more than 10 hectares (10ha), including access tracks used for the mining activity.*
Extractive operations:	*(RC 2.i) The mining activity does not cause... substantial disturbance of more than 10 hectares (10ha), including access tracks used for the mining activity.*
Implication:	Under a standard licence, total disturbance (including tracks) must not exceed 10ha; to do so will require a tailored licence.

The draft revised RC and SC do not propose any changes to the requirements regarding the inclusion of tracks in the 10ha disturbance threshold (other than numbering). Currently, to disturb more than 10ha, operators must apply for a tailored condition licence, thereby triggering public exhibition and a longer application process. Notably the requirement does not apply to existing infrastructure (such as an existing road) to be used by the operator.

Industry responses generally advocated for the exclusion of tracks from the 10ha threshold, claiming that the inclusion of tracks disproportionately consumes the allowable disturbance area, thereby constraining the operational footprint available for core exploration activities, and unfairly impacting operators in regional

and remote areas with longer distances to travel. Industry group responses also indicated that the restrictiveness of the threshold was exacerbated by tracks being lengthened to avoid sensitive features and the requirement for operators to maintain two-way site exits as part of fire management planning; suggesting a perverse policy outcome would be that operators apply for multiple standard condition licences to avoid having to apply for a tailored condition licence. As an alternative, operator submissions suggested reclassifying the requirement from a risk criterion to a standard condition or increasing the threshold to 20ha.

No other groups provided comments specifically regarding disturbance thresholds.

Response

- The intent of the RC is to limit the total amount of surface area disturbance that can be undertaken under a standard licence; given the short assessment period, non-requirement for public exhibition, and conditions promoting rehabilitation urgency (the thinking being that larger projects have an inherently greater risk due to the expanse of disturbance, will require longer to assess, be of greater public interest, and take longer to rehabilitate).
- The disturbance threshold under Western Australia's Eligible Mining Activities framework is 2ha[2].
- Exploration tracks are generally designed to be 3m wide, low-impact and temporary (e.g. <12 months), taking the most practicable direct route possible.
- Review of surface area disturbance data for exploration projects approved between 2022 and 2025 indicate that the average total surface disturbance (including tracks) for all individual regions is less than 10ha.
- Extractive operations generally require the construction of larger and more robust haul roads for use over an extended period (e.g. >12months).
- Review of surface area disturbance data for extractive projects approved between 2022 and 2025 indicate that the average total surface disturbance (including tracks) for all individual regions is approximately 20ha.
- Clearing controls imposed on landholders under the *Planning Act 1999* (unzoned land inc. freehold, Aboriginal land trust and Crown land) require consent for clearing greater than 1ha in aggregate on a single property i.e. including tracks[3].
- Clearing controls imposed on pastoral lessees under the *Pastoral Land Act 1992* permit the lessee to clear vehicle tracks no wider than is reasonably necessary to allow a vehicle to use the track[4].
- Tracks installed by landholders are mostly intended to remain long-term and as such are generally designed and sited with respect to land capability (e.g. avoiding steep or boggy areas) and minimising maintenance requirements (e.g. a longer track may be more economically and environmentally viable, requiring less installation of drainage/erosion/sediment controls and maintenance).
- Disturbance thresholds aside, the revised RC and SC include stringent requirements designed to prevent and minimise environmental impacts from surface disturbance including: exclusion of threatened species habitat; retention of buffers to sensitive features; consideration of land capability; avoidance of highly erodible soils; minimisation of erosion risk; prevention of impacts to water quality; and rehabilitation.

[2] WA Mining Regulations Amendment Regulations 2025 (Consultation Draft)
[3] Northern Territory Planning Scheme – Part 3.2: Part 3 overlays
[4] Northern Territory Government S11

- Exclusion of access tracks from the RC does not alter the fact that the operator must pay security against the project's total disturbance, and tracks must be satisfactorily rehabilitated before security will be returned.
- Should a project trigger a tailored licence due to tracks causing the 10ha disturbance threshold to be exceeded, it remains likely that the associated environmental risks can be adequately managed by the standard conditions and other protections under the EP Act. It would also be undesirable for operators to submit multiple standard licences in lieu of a single tailored licence, thereby creating excess administrative and regulatory burden and complexity.
- **Outcome**: On balance, the risk of excluding tracks from the 10ha surface disturbance thresholds, and increasing the extractive operations surface disturbance threshold is considered to be low. Accordingly the following is proposed:

  Exploration:

  - Retain the surface area threshold of 10ha and exclude tracks.
  - Impose a new standard condition limiting track width to 3m.

  Extractive operations:

  - Change the surface area threshold to 20ha and exclude tracks.
  - Impose a new standard condition limiting track width to 10m.

5. Native vegetation buffers

Exploration:	*(SC 15) The mining activity, including any associated clearing of native vegetation, must not occur within or impact on the following buffers... (a) to (m).*
Extractive operations:	*(SC 14) The mining activity, including any associated clearing of native vegetation, must not occur within or impact on the following buffers... (a) to (m).*
Implication:	To undertake any mining activity in proximity to a specified sensitive feature, closer than the specified distance will require a modified (or tailored) licence.

Currently the RC and SC for both exploration and extractive operations includes a risk criterion prohibiting any impact to sensitive and or significant vegetation (SSV) and various standard conditions specifying buffer widths for specific features, including a blanket buffer of 250m for SSV. The generality of these requirements has the effect of prohibiting a project from involving any waterway crossings (however small or temporary) or being sited closer than 250m from a waterway of any stream order (including intermittent drainage lines) without a tailored licence.

In recognition of the Territory's complex landscapes and that the stringency of the current requirements is more likely to trigger a tailored licence than not; the changes proposed in the draft RC and SC, which included removal of the RC and changes to the 250m SSV buffer, sought to provide a more workable solution, by aligning more closely with the Northern Territory Planning Scheme Land Clearing Guidelines (LCG) –the standard to which other industries and land users are held.

Industry responses generally indicated their support for removal of the existing SSV risk criterion and the corresponding adjustments to the native vegetation buffer standard conditions. However, views regarding alignment of buffer widths with the LCG were divided. Some exploration industry submissions explicitly endorsed the increased consistency with the LCG and exclusion of buffers to first order streams and drainage depressions as proposed. Contrastingly, extractive industry submissions considered SC14 to be unworkable (given sand is deposited as an alluvial product in such areas); with one group claiming that application of the

LCG to the mining industry is “illogical” (given the industry will produce significant disturbance and naturally ephemeral vegetation can be rehabilitated).

Responses from environmental groups did not support removal of the SSV risk criterion, arguing that it is appropriate that clearing of SSV should trigger a tailored licence to ensure the impacts to such vegetation are adequately assessed with reference to expert ecological opinion; and under the proposed arrangements there is a risk some types of SSV will not automatically be excised from the licence area. However, as with industry responses, views regarding the proposed conditions and alignment with the LCG were mixed. Some environmental submissions considered the proposed standard conditions are generally weaker and therefore should not be changed; while others supported replacement of the existing blanket 250m buffer requirement with the proposed feature-specific buffers providing a caveat be added, that larger buffers may be required in accordance with expert ecological or cultural advice regarding the significance of specific features.

Response

- It is important to consider the type of disturbance associated with different mining activities, including impact level and duration.
- The intent of the tiered licencing system i.e. that only high-risk projects trigger a tailored licence, allowing a majority of (low- to medium-risk) projects to qualify for a standard or modified licence.
- Diversion of mining activities such as an access track around SSV (to avoid intersection) may ultimately result in an otherwise greater amount of disturbance or clearing.
- Buffer widths in the LCG are risk-based and feature-specific; and not all SSV is the same. As the LCG state: significant vegetation can be sensitive, but not all significant vegetation is sensitive; and the value/s of SSV can differ.
- For example: under the current requirements, a low-risk exploration project that is required to intersect SSV associated with a first order stream by installing a 3m wide temporary access track across the drainage-line using blade-up techniques (and therefore minimising soil disturbance), will trigger a tailored licence. Alternatively, the project might avoid intersecting the SSV in order to qualify for a standard licence (to avoid public exhibition and a longer statutory assessment period) but ultimately incur a greater amount of disturbance by diverting the track around the drainage line.
- In practice, the current requirements were triggering more tailored licences than necessary or intended. The proposed changes provide a pragmatic and effective solution. Complementary to the new buffer requirements (exploration SC15 and extractives SC14) are conditions requiring appropriate investigations (exploration and extractives SC4) and management (exploration SC13 and 14, extractives SC12 and 13). Where projects cannot meet the standard conditions and therefore qualify for a standard licence, they must complete a risk assessment as part of a modified licence application.
- **Outcome**: In summary, no changes to these draft RC and SC are proposed.

6. Alligator Rivers Region, uranium and NORMs

Exploration:	*(SC 11) If the mining activity involves uranium or naturally occurring radioactive materials (NORMs), the mining operator must hold and implement a radiation management plan, developed by a suitably qualified professional in accordance with the applicable Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) guidelines.*
Extractive operations:	*(SC 10) If the mining activity involves naturally occurring radioactive materials (NORMs), the mining operator must hold and implement a radiation management plan, developed by a suitably qualified professional in accordance with the applicable Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) guidelines.*

Implication:	Projects involving uranium or NORMs, including those in the Alligator Rivers Region (ARR), may qualify for a standard licence.

Currently the RC and SC for both exploration and extractive operations include conditions prohibiting mining activity within the ARR or mining activity involving uranium or NORMs - effectively excluding such projects from the standard licence process entirely (meaning they will always require a modified or tailored licence and therefore always be subject to a longer assessment process and public exhibition).

Industry responses indicated their support for removal of the SC prohibiting exploration and extractive operations within the ARR and revision of the standard condition relating to uranium and NORMs.

Environmental groups were unanimously opposed to both changes, arguing that given the significant community concern and interest in such activities, not requiring public exhibition is clearly unacceptable and represents a serious deterioration of existing community rights.

Response

- The RC and SC relate to exploration and extractive operations (not mining operations); and uranium is not an extractive mineral.
- All projects within the ARR are subject to additional requirements under the *Environment Protection (Alligator Rivers Region) Act 1978*, including consultation with the Office of the Supervising Scientist and relevant Land Council and Traditional Owners. These requirements and processes remain unaffected by the RC and SC.
- All projects involving uranium must also comply with the *Atomic Energy Act 1953* (Cth).
- In practice, the existing requirements were causing otherwise low-risk projects to trigger a modified licence; with no submissions received during public exhibition and the standard conditions being modified to allow projects to proceed in the ARR with implementation of a radiation management plan. The existing arrangements are unnecessarily restrictive without benefit. The proposed changes are in accord with the intent of the tiered framework, streamline process and afford equity across the industry without compromising the level of environmental protection.
- **Outcome**: In summary, no changes to these draft RC and SC are proposed.

7. Retention of infrastructure

Exploration:	*(SC 27) The mining activity must ensure drill pads and access tracks… are rehabilitated such that pre-disturbance topography (landform slope) is reinstated.*
	(SC 30) All areas disturbed by any mining activity must be stable and rehabilitated to a landform similar to that of pre-disturbance conditions…".
Extractive operations:	*(SC 28) The mining activity must ensure drill pads and access tracks… are rehabilitated such that pre-disturbance topography (landform slope) is reinstated.*
	(SC 30) All areas disturbed by any mining activity must be stable and rehabilitated to a landform similar to that of pre-disturbance conditions…".
Implication:	Under a standard licence all disturbance must be rehabilitated. To retain infrastructure at the request of a landholder will require a modified (or tailored) condition licence.

The draft revised RC and SC do not propose any changes to the requirements regarding rehabilitation of disturbance and / or infrastructure (other than numbering). Currently, if an operator proposes to retain

infrastructure in response to a landholder's request, they must apply to modify the related condition and submit a modified (or tailored) condition licence application, thereby triggering public exhibition and a longer application process. Although retention of infrastructure is possible under the current system, many submissions raised concerns about whether it is possible.

Industry responses advocated for the ability to retain infrastructure for landholders under a standard condition licence. Industry groups attested that it has been a long-standing practice for landholders to request that operators leave infrastructure such as tracks and bores in situ for their ongoing use, or indeed to be constructed as a condition of site access (e.g. stating tracks play an important role in providing Traditional Owners with easier access to areas for hunting and fire management, and to sacred sites). Industry maintains that enabling landholder retention of assets established by operators helps to strengthen the cooperative relationships between landholders and operators, whilst acknowledging that landholders do not require approval for track installation; and noting that a perverse outcome might be that operators install certain infrastructure 'on behalf of the landholder' and exclude it from their security calculations and disturbance tracking.

No other groups provided comments specifically regarding the retention of infrastructure for landholders. However, a Land Council asserted that Land Councils and Traditional Owners should be consulted prior to any vegetation clearing being undertaken and must be involved in the process of evaluating rehabilitation (especially on Aboriginal freehold land). The Land Council also advocated that government should consider how Traditional Owners and nearby communities use land disturbed by mining activity and that operators must be required to ensure that the land can be used for cultural purposes in a safe way.

Response

- The intent of the SC is to ensure no disturbance is left unrehabilitated (by default); and requiring an operator to apply to modify the conditions to allow for landholder retention of infrastructure will assist to ensure appropriate planning, siting and design (and as such prevent environmental impacts in the long term).
- It is also intended to avoid landholders circumventing clearing controls applicable to non-mining activities.
- Exploration tracks are intended to be low-risk, low-impact and temporary (e.g. 3m wide, minimal or no grading) and as such are afforded greater flexibility/leniency with respect location than a permanent track or road. For example, an exploration track might take a more direct route compared to a permanent track that may need to meander in response to buffer requirements or land capability considerations such as slope and soil type.
- Regarding waterway crossings, a temporary exploration track that is both installed and rehabilitated in a single Dry season may not cause "interference with a waterway" and therefore avoid triggering the requirement for a tailored condition licence or a permit under the *Water Act 1992* (or alternate siting and design). Contrastingly, a permanent waterway crossing in the same location may cause a material change to the shape, volume, speed or direction of the flow of the waterway, or an alteration to the stability of its bed or banks – i.e. "interference with a waterway".
- Licence type aside, operators must pay security against all disturbance associated with the project and security will not be returned unless the site is safe, stable, non-polluting and self-sustaining. This means that if some disturbance/infrastructure were to be retained at the landholder's request and acceptance of liability, it would still need to satisfy this requirement to be in accordance with the objects of the EP Act (i.e. to protect the environment) and for security to be returned.

- In practice, a landholder may not request infrastructure to be retained until after it has been installed; likely requiring an operator to need to apply to vary their licence (without guarantee of approval) and potentially requiring public exhibition and or installation of additional controls or mitigation measures.
- **Outcome**: In recognition of the value afforded to promoting cooperative relationships between landholders and industry, and of maximising the benefits of regional industry development; appropriate landholder infrastructure retention is proposed to be facilitated through the introduction of Landholder Infrastructure Liability Agreements (LILA).

  A templated LILA form will be required to be signed by both parties and may be submitted with an initial licence application or at any stage of the project prior to site closure. However, consideration of "interference with a waterway" will still apply i.e. if triggered, the operator will need to secure a tailored licence (through initial application or licence variation) or a separate permit under the *Water Act 1992*.

8. Other environmental considerations

Interference with a waterway and waste discharge

The current RC requiring that "the mining activity does not *interfere with a waterway*" (IWW) is proposed to be amended to incorporate the IWW definition and to add "except in accordance with a permit to IWW issued under the *Water Act 1992*". Furthermore, the current SC requiring that "the mining activity must not involve the discharge of any waste to water" is proposed to be replaced by a RC requiring that "the mining activity must not involve the discharge of any waste to water except in accordance with a waste discharge licence (WDL) issued under the *Water Act 1992*".

Responses from environmental groups asserted that applying for either an IWW permit or WDL should not be substitutive of consideration under the EP Act; and that if a project requires either, it should also require a tailored licence. One independent submission considered that no impacts to waterways should be permitted and there should be no relaxing of waste discharge requirements.

Baseline establishment and rehabilitation

Two submissions received raised concerns relating to rehabilitation, recommending that: conditions be included relating to environmental baseline establishment and reporting; and the current timeframe for commencing rehabilitation be reduced from "no later than 12 months following completion of the mining activity on the disturbed area".

Retention of large trees

The current standard condition prohibiting the clearing of a tree with a "diameter greater than 40cm at 1.2m high" is proposed to be amended to a "diameter greater than 40cm at 1.3m from the base of the tree (i.e. ground level)". The proposed change is intended to align with the standard scientific convention for tree diameter at breast height (DBH). No comments were received regarding the proposed change; however, two extractive industry submissions requested that the condition be removed, with one claiming that it is the single biggest impediment to economic development in the Northern Territory for the industry.

Sites of conservation significance (SOCS)

No changes have been proposed regarding the standard condition prohibiting mining activity from being located within or impacting a SOCS. However, three industry comments were received. One industry group considered that it is government's responsibility to provide environmental baseline data for all SOCS. Another proposed that the condition be amended to only relate to significant impacts within SOCS. One operator whose project is located in a SOCS and therefore triggered a modified licence (despite being otherwise low risk), proposed that the condition be removed.

Response

Requiring a project with an existing IWW permit or WDL issued under the *Water Act 1992* that is otherwise low risk (e.g. meets all other RC and SC) to obtain a tailored condition licence represents a duplication of process with no benefit or bearing on the outcome. Projects that would otherwise require an IWW permit or WDL but do not have one, will have the option of applying for a tailored condition licence (so the respective conditions will be included on the environmental mining licence) or applying for the required approval under the *Water Act 1992*. Further details are to be provided in the relevant guidance material and application forms.

No further changes to RC and SC are proposed in relation to rehabilitation, large trees or SOCS. Guidance material and compliance report templates will provide clarity regarding data collection and information reporting requirements. Large, mature trees are important wildlife refugia and removal should be subject to site-specific assessment (making the standard condition appropriate). Similarly, SOCS warrant special consideration for their unique values, particularly regarding impacts from intensive extractive operations.

9. Additional issues raised

Regulatory duplication

The SC requiring that the mining activity not be inconsistent with “the requirements of a certificate, permit, approval or other authority required for the mining activity under another law” is proposed to be removed. One environmental group submission recommended that the condition not be removed, whilst a Land Council recommended that proposed SC3 (regarding prohibition of mining activities within certain locations) be further amended to include reserve blocks and proposed reserve blocks. Contrastingly one industry submission claimed that SC14 (regarding avoidance of sacred sites and heritage places) could be perceived as policy over-reach and recommended its removal.

Public exhibition

Three comments were received regarding public exhibition requirements. One indicated that all standard licence applications should be subject to public exhibition; one indicated that Traditional Owners should be able to comment on all standard applications; whilst another argued that the proposed forward program of works SC should not be adopted without the requirement for their public exhibition.

Guidance material and definitions

Several comments were received recommending that the RC and SC include additional information and definitions in relation to: the meaning and threshold for ‘significant impact’ and how cumulative effects will be considered; reinstatement of the term ‘brownfield’ (to avoid allowing the potential disturbance of other contaminated non-mining sites); defining the ‘natural surface of the land’ (with respect to extractive operations conditions); the inclusion of reference to Land Councils at SC4 (regarding making appropriate enquiries); and reference to the Leading Practice handbook for Working with Indigenous Communities (Department of Industry, Science and Resources, 2016) at SC6 (regarding adoption of leading practice). One industry submission also reiterated the need for additional clear guidance materials and examples (such as a hypothetical application form) to avoid delays to the application assessment process.

Procedural matters

Comments regarding recommended improvements to the licence approvals process were received from both industry groups and other submitters. In particular, one exploration group expressed support for operators being required to submit ‘activity extent’ polygons for approval rather than the exact location of

proposed drill pads and tracks (etc.). Another industry group recommended that the department reassess all regulations, internal processes and staff resourcing to ensure approvals process efficiency, whilst aiming for low-risk work programs to be approved within 15 business days. A Land Council commented that the department needs to provide a clear plan for monitoring and compliance beyond operator self-reporting.

Other comments

Additional comments from industry groups and operators raised concerns about costs, in particular the up-front costs associated with surveys as required by proposed SC4. An independent submission claimed that the evidence required to support applications increases the operator's costs and, combined with the associated time delay, ultimately increases the cost of construction materials.

Another industry group considered that the risk criteria for mineral exploration should be set lower, with the current requirements posing unfair impediments to early stage exploration and therefore having the potential to reduce the Territory's total exploration spend. One operator raised concerns that similar RC and SC will be applied for mining licence applications, thereby creating regulatory inconsistency and continued barriers throughout the project lifespan.

Response

Notably, the EP Act defines environment as meaning "all aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects". The revised RC and SC have been amended to maintain consistency with other legislation where appropriate, but do not seek to regulate matters beyond the scope of the Act or to duplicate its requirements. Reference to critical matters covered by the Act (e.g. security and levy payment) and other legislation (e.g. avoidance of sensitive environmental and cultural features) in the RC and SC have been included in accordance with the objects of the Act (i.e. to protect the environment) and to assist operators to meet its requirements.

No changes to public exhibition requirements as specified in the Act are proposed. The forward program of works proposed in the SC will require brief assessment by the department (to ensure consistency with the terms and conditions of the approved licence – including the already assessed and approved activity extent), but will not trigger licence variation or public exhibition.

In conjunction with revision of the RC and SC, the department will be releasing revised application forms and publishing guidance material relating to the licence framework, application process, the RC and SC, and compliance reporting. These materials will assist to ensure the approvals process runs as efficiently as intended. Furthermore, establishment of the public register is progressing and all licence application, approval and compliance reporting documentation is intended to be published on it.

10. Future reform areas

Additional suggestions received regarding potential areas for future reform, beyond the scope of the RC and SC, are listed below and will be considered as appropriate through other reform processes.

- Amendment of the regulations to integrate statutory public exhibition periods within the statutory application assessment period, to increase project certainty.
- Identification by government of specific, defined sand-rich areas to be set aside for extractive operations, to allow for efficient sourcing and environmental protection.
- Identification of clear pathways for members of the public, particularly Aboriginal Territorians, to report on non-compliance.

Existing resources:

  - *Mining | Department of Lands, Planning and Environment*

- Publication of a list of all mining approvals, timelines and quarterly updates.

  Existing resources:

  - *Mining regulation assessment timeframes | NT.GOV.AU*
  - *Securities held for mining sites | NT.GOV.AU*
  - *Mining management plans and reports | Department of Mining and Energy*

- Establishment of a critical minerals modified licence stream, for an expedited assessment pathway.
- Allow conditional licence approvals, pending input from other departments or Land Councils.
- Establish a formal advisory panel with representatives from government, industry and independent experts to focus on continuous improvement.
- Transfer of the responsibility for financial management of mining security (DME) to the department responsible for managing approval of rehabilitation and security returns (DLPE).
- Transfer of the responsibility for mining regulation back to the original regulator (DME).
- Conduct a review of the resources dedicated to mining regulation, to ensure staff are appropriately equipped with the required training and tools, and consider outsourcing where capacity is lacking.

Appendix

Submissions received

Responder categories	Number of submissions received
Industry representatives*	5
Other stakeholder organisations**	3
Operators – Exploration	8
Operators – Extractive operations	1
Independent responders	3
Total	**20**

Response type	Number of submissions received
Letter	15
HYS survey comment	4
Phone call	1
Total	**20**

***Industry representatives**

Association of Mining and Exploration Companies (AMEC)

Australian Mining and Exploration Title Services (AMETS)

Extractives Industry Association NT (EIANT)

Geological, Exploration and Mining Services Association NT (GEMSANT)

Minerals Council of Australia (MCA)

****Other stakeholder organisations**

Central Land Council (CLC)

Environment Centre NT (ECNT)

Environmental Defenders Office (EDO)