



Government of **Western Australia**
Department of **Mines and Petroleum**

Submissions received on the
Mining Proposal Reform Discussion Paper

November 2014

Contents

1. Introduction	1
2. Key Themes	2
i. General Comments	2
ii. Risk-based Assessments	2
iii. Outcome based Regulation	2
iv. Environmental Objectives.....	3
v. Management System	3
vi. Spatial Capture.....	3
vii. Specific Footprint or Use of Clearing Envelope	3
viii. Revision Based Submission	3
ix. Inclusion of Heritage, Social and Land-Use Impacts	3
Appendix 1 – Stakeholder Submissions on the Mining Proposal Reform Discussion paper	4

1. Introduction

In 2012, the Department of Mines and Petroleum (DMP) announced the implementation of a Reforming Environmental Regulation (RER) program that aims to establish a risk and outcome based regulatory framework. This framework will ensure that regulatory effort by DMP is targeted and proportionate to protect environmental values in an effective, efficient and timely manner; and to support the community expectation for responsible development.

Reform to the structure and content of Mining Proposals in Western Australia is an essential component of the RER program. The aim of Mining Proposal reform is to ensure environmental regulation of mining is focused around the identification and mitigation of key environmental risks to ensure an agreed environmental outcome is achieved. The proposed reforms and scope of changes to Mining Proposals are discussed in the *Mining Proposal Reform Discussion paper*.

In October 2014 the *Mining Proposal Reform Discussion paper* was released for a four week public comment period as part of the first phase of the stakeholder engagement strategy and provided an opportunity for stakeholder feedback.

The Department received a range of comments and suggestions from stakeholder representatives. This document is a summary of some of the key themes raised in the submissions. A table of the submissions is included as Appendix 1.

2. Key Themes

A range of feedback on the *Mining Proposal Reform Discussion paper* has been received from stakeholders. Some key themes are highlighted below.

i. General Comments

- Overall, there was support for the proposed changes to Mining Proposals.
- Stakeholders highlighted the need to address duplication and regulatory overlap. For example, the need to address duplication in Mining Proposals and Mine Closure Plans, potential for duplication in risk assessments required in the Mining Proposal and under the *Environmental Protection Act 1986*, and duplication of environmental reporting requirements.

ii. Risk-based Assessments

- Stakeholders were supportive of a risk-based assessment.
- Some concern was raised regarding flexibility in risk assessments. Guidance on the basic criteria required for risk assessments and minimum data deemed acceptable for characterising key risks would be beneficial.
- There is concern that there will be duplication in risk assessments required as part of the Mining Proposal and under Part IV approval under the *Environmental Protection Act 1986*.

iii. Outcome based Regulation

- Generally, stakeholders were supportive of outcome based regulation. However, there is a need for outcomes to be appropriately set and properly defined.
- The existing Mining Proposal reform documentation does not contain detail on how compliance will be assessed by DMP.
- There was limited recognition that knowledge will mature over time and how this will be reflected in the preliminary expectations.
- It was recommended that:
 - DMP provide clarity and transparency to industry around the proposed regulatory and compliance processes that will be used.
 - DMP clarify how the operational environmental outcomes will differ from closure outcomes.

iv. Environmental Objectives

- Stakeholders recognised that Environmental Objectives need to be further developed and finalised.
- There is wide divergence in the preferred options. Some stakeholders recommend using EPA objectives to reduce duplication or inconsistency. Others considered these will be inappropriate.

v. Management System

- Some stakeholders recommended that Management Systems be based on ISO 14001. However, small scale operations need to be taken into account.
- Others recommended that DMP develop non-prescriptive guidance to outline the basic criteria required for developing and maintaining a management system.
- One stakeholder suggested that if the Proponent gave evidence of ISO14001 current certification, this should then alleviate the need to discuss the management system further.

vi. Spatial Capture

- It was recommended that DMP ensure any data provided is secure and not available to third parties.
- There was support for the integration of GIS information across Mining Proposals, Annual Environmental Reports and Mining Rehabilitation Fund.

vii. Specific Footprint or Use of Clearing Envelope

- There was strong support for use of an assessment and approval envelope.

viii. Revision Based Submission

- There was strong support for a revision based submission.
- It was requested in a number of submissions that guidance be provided on the threshold that will be the difference between provision of a notification or a revised submission to the Mining Proposal.

ix. Inclusion of Heritage, Social and Land-Use Impacts

- There was general support for the consideration of heritage, land use and community in the Mining Proposal, provided that the requirements of the *Aboriginal Heritage Act 1971* are not duplicated.

Appendix 1 – Stakeholder Submissions on the Mining Proposal Reform Discussion paper

The review process notified respondents that their submissions would be made publicly available on the DMP website. However, personal details or company names attributed to those comments could be made confidential at their request. For those stakeholders providing confidential feedback, this appears as an “In Confidence” entry in the feedback table.

For the purposes of more easily grouping and responding to points raised by stakeholders, the submissions have been split into sections of the Discussion Paper.

Stakeholder	Comment
KEY CHANGES TO MINING PROPOSALS	
1. General Comments	
Kelli McCreery	Overall, I can't quite see how a risk-based assessment can be possible, without better information on, in particular WA's biodiversity.
Clark Lindbeck & Associates Pty Ltd	An excellent initiative by the DMP. Long overdue to direct the impacts of projects towards risk and outcomes rather than prescription which has resulted in the bigger environmental issues being overlooked in favour of the minutiae of minor impacts. The success of the electronic submission of AER's and MRF (albeit with some teething problems) augers well for a similar system of electronic submission of MP's.
IN CONFIDENCE 1	The requirements and approach for the new Mining Proposals should be closely aligned to the requirements of the new Mine Closure Guidelines, to avoid duplication and/or conflict.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME welcome the opportunity to review and provide comment on the Department of Mines and Petroleum's (DMP's) Mining Proposal Reform Discussion Paper (discussion paper). Overall, CME consider the discussion paper a progressive step towards the DMP delivering on an outcomes and risk-based regulatory framework. CME support the Mining Proposal Reform discussion paper, however, recommend consideration of several matters outlined below.</p> <p>CME recommend:</p> <ul style="list-style-type: none"> • DMP develop non-prescriptive guidance to outline the basic criteria required for Mining Proposal risk assessments. • DMP conduct a review of the risk assessments required under Part IV and Part V of the <i>Environmental Protection Act 1986</i> and ensure duplication with the risk assessment required for a Mining Proposal is minimised. • DMP clarify the environmental outcomes developed for the Mining Proposal are to be specific to construction/operations and to delineate these, where practicable, from the closure outcomes which are specified in the Mine Closure Plan. • DMP adopt the first environmental objective shown in Table 1 of the Mining Proposal Reform Discussion Paper as the primary environmental objective for mining activities in Western Australia. The remaining objectives shown in Table 1 should be adopted as secondary objectives.

Stakeholder	Comment
	<ul style="list-style-type: none"> • DMP develop non-prescriptive guidance to outline the basic criteria required for developing and maintaining a management system. • The Mining Proposal guidelines include provisions for the activity footprint to be based on an approved envelope. • DMP clarify the notification process for minor changes to the Mining Proposal and whether this will initiate the requirement for an updated version to be submitted for approval. • DMP align the 'Mine Site Details' with the information required for other online reporting (such as the Annual Environmental Report or Mine Rehabilitation Fund). • Aligning the 'Activity Details' with the disturbance categories used for AER and MRF. • DMP work with the Environmental Protection Authority, the Department of Environment Regulation and the Department of Local Government and Communities to determine a cross-government approach for proponents to engage stakeholders for environmental approvals. • Inclusion of heritage under the 'Environmental Legislative Framework' section of the Mining Proposal guidelines. • DMP complete a review of all mandatory environmental incident reporting currently required in Western Australia to prevent duplication in future legislative amendments to the <i>Mining Act 1978</i>. • DMP develop detailed guidance on thresholds of reporting of incidents, process for reporting incidents and action required to be taken. Where possible, utilisation of existing processes under the Annual Environmental Report should be maximised. • The Mining Proposal guidelines include examples showing different types of projects approved under other environmental legislation (such as Part IV and Part V of the EP Act) and the application of the Mining Proposal guidelines against these.
MWH Global	The proposed changes to Mining Proposals are to be commended, as identifying environmental risks will lie predominantly with the Proponent, thereby encouraging innovation and best practice.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	<p>Broadly we understand that with the proposed MP reforms, DMP aims to focus on environmental risks and outcomes for mining projects rather than documents and commitments, and we believe this could make environmental regulation more efficient for both regulators and proponents, if well implemented.</p> <p>We also understand that DMP proposes to break down MPs, which have to date been self-contained documents, into spatial data, structured information (entered via web-based forms) and supporting attachments. This could make submission, assessment and</p>

Stakeholder	Comment
	<p>information management substantially more efficient, but it will need to be very well implemented to match the powerful editing, reviewing and collaboration benefits provided by Microsoft Office and other tools used to prepare the traditional documents. We would urge DMP to allow a long period of testing and user acceptance, rather than signing off on the system to meet an arbitrary internal deadline. The spatial data capture part of the system should be designed to integrate properly with AER and MRF reporting. Current limitations on file sizes for attachments makes online submission difficult. We recommend this is addressed as part of the reform process</p> <p>We note that the discussion paper is written in a grandiose style, full of management jargon that makes it unnecessarily hard for the reader to follow; regrettably this is true of many DMP publications and we hope that future discussion papers will improve upon this. If DMP can provide more detail on how it plans to implement the reforms, industry will be able to provide more effective feedback.</p>
Dr Clint McCullough and Golder Associates Pty Ltd.	We are supportive of the general approach the draft advises and the move towards less prescriptive and more site-specific risk based assessments of mining activities.
AMEC	<p><u>Administrative and Compliance Burden</u></p> <p>Industry is concerned that there are some aspects of the proposed reform which could result in an additional administration and compliance burden on operators. This appears to be the case where it will be mandatory for all operators to continually evaluate their level of environmental risk through a formal Environmental Management System; and mandatory environmental incident reporting.</p> <p>These issues need to be carefully managed and balanced to ensure that environmental management assessment, measurement, DMP reporting expectations and materiality requirements are commensurate with the potential environmental risks.</p> <p>Based on comments made at the Industry Briefing session on the RER reform agenda on 7 October, it is understood that DMP considers the outcome based regulation model will result in 'co-management'. If this is the case, the 'co-management' model should be clearly defined to avoid any ambiguity. It also has the potential to place additional costs on industry, beyond those already being incurred.</p> <p><u>Recovery of Future Costs</u></p> <p>Although the Discussion Paper makes no reference to recovery of any future costs incurred by DMP from industry, please note that AMEX cannot support any such initiative. In fact changes in processes such as these should be designed to reduce costs in DMP. AMEC's views on this issue are clearly expressed in response to the Cost Reflective Pricing Options Discussion Paper.</p>
IN CONFIDENCE 2	IN CONFIDENCE 2 welcomes the 'outcomes based' approach, as it provides flexibility to operate effectively. The discussion on post mining land uses throughout the document should be tempered by acknowledging that these will be conceptual in nature in the early stages of an operation and can be modified as site knowledge increases. IN CONFIDENCE 2 recommend that the Department of

Stakeholder	Comment
	<p>Mines and Petroleum (DMP) clarify if Offsets will be required as part of a Mining Proposal. IN CONFIDENCE 2 also recommends that DMP outline how projects that are not 'Mining' will be assessed i.e. workshops/camps/turkeys nests, but are subject to a Mining Proposal due to the lease type. With updating the Mining Proposal, there is a danger that this will duplicate the regulatory requirements of Part IV and Part V of the Environmental Protection Act. IN CONFIDENCE 2 therefore suggest a review of current and future State environmental legislation to ensure that the Mining Proposal reform will not replicate requirements under another regulatory framework.</p>
<p>IN CONFIDENCE 3</p>	<p>I think this is a great step towards a better outcome for the environment and the industry.</p>
<p>Wildflower Society</p>	<p>The Society would like to thank the Department of Mines and Petroleum (DMP) for taking the opportunity to meet with both the Society and the Conservation Council of WA (CCWA) on the 26 March 2014 to discuss the proposed environmental reform of the <i>Mining Act 1978</i> (the Act). The reform presents an opportunity to ensure there is a contemporary environmental regulatory framework in place for mineral exploration and development activities. The Society welcomes the initiative.</p> <p>Recommendations made by the Society and CCWA were recorded by Dr Leybourne and the Society supports the use of these comments as a submission. We particularly believe the process needs to take into account the Environmental Protection Act and maybe be linked to it in some manner.</p> <p>The Society understands that development of the risk-based framework will occur during the next phase of consultation. The provisions of the Act must clearly stipulate what is considered appropriate risk identification to ensure environmental harm is avoided or minimised.</p> <p>We also note there were some "Other Issues" mentioned at the end of Dr Leybourne's notes and we look forward to seeing how you progress these matter.</p> <p>The Society trusts these recommendations will be considered and we would appreciate being kept updated through the process.</p> <p>Notes from meeting between CCWA and DMP, 26 March 2014, regarding a discussion paper on legislative reform</p> <p>Environment definition, don't reinvent the wheel, use the same definition as the EP act.</p> <p>At present, environmental protection act regulations state that can't do anything to harm the environment unless you have approval. It doesn't say what sort of approval (so it could cover mining approvals).</p> <p>Tailings, EPA is not assessing these - being completely ignored. Need these to be assessed by DMP.</p> <p>As new things come along, that are not prescribed premises under part 5 of EP Act, like gas fracking, are then not covered by part 5</p>

Stakeholder	Comment
	<p>at all.</p> <p>Perhaps consider DMP getting out of environmental regulation altogether. Perhaps mining environmental regulation could be done as a separate part to the EP Act. Then it could all be under an Act that is set up to do environmental regulation.</p> <p>Some of the conflict is due to DMP moving into environmental regulation, rather than just administration of tenements.</p> <p>CCWA position will always be to write provisions into EPA Act.</p> <p>Similar sort of issue, e.g. land clearing that used to be under the Soil and Land Conservation Act, moved to EP Act.</p> <p>Minister needs to be able to make conditions about the environment Could potentially have conflict with other agencies.</p> <p>What is essentially being suggested by DMP is the putting together of a more duplicative system with an EP Act that is already adequate (or largely so)</p> <p>Issue of ALARP, kind of allows people to do anything. Hard to demonstrate in court.</p> <p>Need to have allowable standards of impact on the environment. Cannot allow companies to make their own determination as to what would be an acceptable standard. Consider that DMP needs to stipulate what outcomes are acceptable, e.g. no groundwater contamination Need to say what outcomes are. If they don't meet these outcomes, they won't get approval, and if they do damage the environment, prosecute them. We need to determine what level of damage we will accept.</p> <p>CCWA would like the clear acceptable outcomes to be in regulation. Move away from prescriptive methodology to prescriptive outcomes.</p> <p>Need criteria to guide the decision making. Put objectives into regulation.</p> <p>Perhaps either refer to other standards as established by government, or come up with own standards, and prescribe them in regulation. If they aren't written into regulation, they need to be put somewhere, perhaps in guidelines with a head power to make them enforceable.</p> <p>Get EPA to agree in MOU a significance trigger, so that if company says can't meet objective, EPA must assess.</p> <p>Definition of significance trigger will be needed.</p> <p>Need to make it abundantly clear that the grant of a mining lease does not give any right to mine, even conditionally. Need to avoid possibility of conditions being like "must provide an EP". As this doesn't state must comply with the EP.</p>

Stakeholder	Comment
	<p>Consider that giving a lease over a reserve, should be required to provide a proposal at the lease granting stage. Otherwise, the warden will have nothing to go on.</p> <p>Offsets need to be properly implemented. They should be required to give up tenements on the offsets and the land be reserved so that it cannot be pegged at any time in the future.</p> <p>Otherwise there is no certainty at all.</p> <p>Have the companies determine the most appropriate mechanism, e.g. negotiation on land and relinquishment of tenements. Need to be able to peg conservation estate, which would overrule any mining tenements</p> <p>State Agreement tenements, these should also be covered by the new legislation (and the MRF).</p> <p>The changes should be in EP Act, with head powers for DMP to deal with. DMP is now dealing with significant issues, may need a public consultation process for that.</p> <p>Need to make sure can regulate for effects outside tenements. Need to have conditions that can be enforceable off tenement. Get as much into regulation as possibly can</p> <p>Other issue to be explored:</p> <ul style="list-style-type: none"> • Pre-existing public land access issues • Registered manager - OHS issue • Exploration companies will try to keep people out. If give commitment through consultation to keep access, then then this needs to be enforced.
Fortescue Metals Group	<p>Fortescue supports reforms that implement an objective and risk-based regulatory framework, improves regulatory effectiveness and removes unnecessary duplication in the Mining Proposal approval process. Fortescue's main focus is the removal of duplicative regulatory systems. There currently exists unnecessary overlap between Part IV and Part V of the EP Act and the regulatory system currently employed by DMP under its Mining Proposal approval process. Whilst Fortescue supports DMPs proposed reforms to eliminate this regulatory duplication, Fortescue considers that the Mining Proposal Reform Discussion Paper (the Paper) does not provide any clarity regarding how DMP will implement the reform, nor how far reaching the reform might be.</p> <p>Fortescue is particularly supportive of the following changes identified in the Paper:</p>

Stakeholder	Comment
	<ul style="list-style-type: none"> • The proposal not to re-assess activities, approved or regulated under other legislation within the Mining Proposal, • One Mining Proposal that is updated throughout the life of the mine, and • DMP assessment only where modifications to the approved activities increase the environmental risk or result in changes to environmental outcomes. <p>Fortescue has concerns regarding the following changes identified in the Paper:</p> <ul style="list-style-type: none"> • Significant amount of duplication of information is still required under the proposed reforms - information such as biological, hydrological, hydrogeological and stakeholder engagement would still be required under Part IV and Part V of the EP Act, <i>Rights in Water and Irrigation Act 1914</i> (RIWI Act) and in both the Mining Proposal and Mine Closure Plan, • Submission of spatial data being inconsistent with the outcomes-based approach, • Security of submitted spatial data, • Duplication of environmental incident reporting requirements, and • Replacement of current duplicative procedures (referral to external agencies for advice or comment) with a process which continues to require referral to external agencies. <p>Fortescue requests DMP provide further information on the following considerations relating to the reform that are not discussed within the Paper:</p> <ul style="list-style-type: none"> • How will the proposed online system integrate, if at all, with the current AER and MRF online reporting processes? • How does DMP propose to manage current mining proposals approved prior to the online system implementation? • What components of the information submitted online will the approval consist of? • Will the approval be imposed as a new tenement condition? • How will DMP manage the removal of tenement conditions, to implement document based mining proposal, potentially replaced by the submission of an online proposal that supersedes those approvals?

Stakeholder	Comment
IN CONFIDENCE 2	<p>Does mine closure need to be included in MP?</p> <p>This should not replicate what is within the Mine Closure Plan (draft document also out for review)</p>
1.1 Risk-based assessments	
Clark Lindbeck & Associates Pty Ltd	Agree with the proposed process.
IN CONFIDENCE 1	Risk-based assessment and outcomes based regulation is supported; however, this should be instead of, not in addition to, prescriptive management commitments. It is important that this is clearly reflected in the specific requirements of the new Mining Proposal Guidelines.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME support the DMPs proposal to introduce an environmental risk and outcomes-based approach for mining activities in Western Australia. As such, CME welcome the responsibility for tenement holders to demonstrate the environmental risks arising from a proposal are identified and managed to an acceptable level.</p> <p>Allowing flexibility in how risk assessments are conducted is supported by industry. However, CME acknowledge small-scale mining operations (SMOs) may not be as well-resourced as large-scale mining operations (LMOs), and guidance on the basic criteria would be beneficial.</p> <p>CME recommend DMP develop non-prescriptive guidance to outline the basic criteria required for Mining Proposal risk assessments.</p> <p>CME is concerned the introduction of a risk assessment as part of the Mining Proposal, may result in duplication for proponents with projects that may have a significant effect on the environment and therefore, trigger Part IV approval under the <i>Environmental Protection Act 1986</i> (EP Act). Further, where proponents are required to obtain a works approvals or licence under Part V of the EP Act, a risk assessment is also required.</p> <p>CME recommend DMP conduct a review of the risk assessments required under Part IV and Part V of the <i>Environmental Protection Act 1986</i> and ensure duplication with the risk assessment required for a Mining Proposal is minimised.</p>
Martinick Bosch Sell Pty Ltd (MBS Environmental)	This is not a new thing, but it formalises, standardises and structures the environmental risk assessment that should (implicitly or explicitly) be central to any MP. If well implemented, this should be a good thing.

Stakeholder	Comment
Dr Clint McCullough and Golder Associates Pty Ltd.	We are concerned that 'flexibility' in risk assessment process will translate to difficulties in regulatory assessment. Perhaps more stringent guidelines are required on how the risk assessment is approached/ format. We would like to engage in discussions with the DMP on this matter. Here and 1.3. Environmental risks are discussed here but emphasis also needs to be given to social/human health risks. This can be achieved through a broader and more inclusive definition of 'environment' as used by the Lao PDR risk assessment process.
IN CONFIDENCE 2	The risk-based approach should align with the approach taken from other regulators. It is recommended that the DMP issue guidance that outlines the basic criteria required for risk assessments.
IN CONFIDENCE 3	DMP should provide guidelines on the minimum data deemed acceptable for characterising key risks (i.e. geochemical risk, geotechnical risk and so on). The type of assessment required needs to be stated: is a qualitative assessment sufficient or do we want one quantitative (i.e. with scores)? A Source-Pathways-Receptor analysis may be suggested for the risk assessment. To avoid confusion, DMP may consider providing guidelines on the risk matrix with likelihood and consequences in line with the environmental objectives; the risk assessment should aim at identifying risks and mitigations during operations and post closure as risks and management options are likely to change during the LOM. A mechanism for updating the risk matrix, as more data are available should be suggested so that the risk matrix becomes a dynamic tool that evolves as the project and the knowledge evolve. It may be tied in with the AER, the update of the closure plans or similar.
Fortescue Metals Group	<p>Fortescue supports the application of risk-based assessments to demonstrate that the environmental risk arising from a proposal are identified and managed to an acceptable level.</p> <p>Fortescue is concerned that duplication of regulatory processes remains where projects have been assessed under Part IV of the EP Act. Environmental Risk Assessments (ERAs) are an important part of the formal environmental impact assessment (EIA) process. The DMPs proposal appears to call for this to be repeated through the Mining Proposal approvals process.</p> <p>Fortescue recommends DMP review the requirements for ERAs under Part IV of the EP Act and that DMP exempts Projects from the requirement to undertake ERAs where this has been considered under Part IV of the EP Act. This would remove unnecessary duplication.</p> <p>Fortescue recommends DMP provide guidance on what recognised risk management process and framework proponents are required to demonstrate as part of the mining proposal.</p>

Stakeholder	Comment
1.2 Outcomes based regulation	
Clark Lindbeck & Associates Pty Ltd	Agree with proposed process so that there is one "base' document with amendments notified progressively. Hopefully this will enable more flexibility by the DMP to approve changes to outcomes based on new technology or new materials available for rehabilitation at projects.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>Outcomes-based regulation moves away from detailed, prescriptive rules, instead relying on broadly stated principles or objectives to set standards by which proponents conduct their operations.</p> <p>The opportunity for applicants to be involved with setting environmental outcomes increases the practicality and in turn should improve the efficiency and cost to industry. As such, CME support the DMP's move for environmental outcomes to be developed by the applicant.</p> <p>To ensure there is no overlap with the closure outcomes as required by the <i>Guidelines for the Preparation of Mine Closure Plans</i>, clear delineation between environmental outcomes for construction/operations and closure should be outlined in the Mining Proposal guidelines.</p> <p>CME recommend DMP clarify the environmental outcomes developed for the Mining Proposal are to be specific to construction/operations and to delineate these, where practicable, from the closure outcomes which are specified in the Mine Closure Plan.</p>
Martinick Bosch Sell Pty Ltd (MBS Environmental)	Provided that the outcomes are appropriately set and properly defined, this could make the regulatory process substantially more efficient for both proponents and regulators. Proponents will need to negotiate outcomes that are within their control and deliverable. Regulators will need to negotiate outcomes that are well-defined and measurable. If well implemented, this should be a good thing.
Dr Clint McCullough and Golder Associates Pty Ltd.	We agree with outcomes-based assessments. However, such assessment relies on a sound understanding of the site risks in the early stages of mine development in order to adequately estimate the risk outcomes.
IN CONFIDENCE 2	The existing Mining Proposal reform documentation does not contain detail on how compliance will be assessed by DMP. Also lacking is recognition that knowledge will mature over time (this was captured well in the Closure Guidelines) and how this will be reflected in the preliminary expectations. It is recommended that DMP clarify how the Operations outcomes will differ from Closure outcomes.

Stakeholder	Comment
Fortescue Metals Group	<p>Fortescue supports outcomes based regulation as a means of achieving greater flexibility and adaptable management on site, which is currently restricted by the implementation of Mining Proposal commitments that may be too specific and sometimes obsolete.</p> <p>Fortescue has concerns regarding how the DMP will assess compliance against the agreed environmental outcomes and the potential for duplication between operational environmental outcomes and closure outcomes required by the <i>Draft Guidelines for Preparing Mine Closure Plans</i> (the Closure Guidelines).</p> <p>Fortescue recommends DMP provide clarity and transparency to industry around the proposed regulatory and compliance processes that will be used</p>
1.3 Environmental Objectives	
Kelli McCreery	Please see Section 2.7.
Clark Lindbeck & Associates Pty Ltd	Agree. However, there must be clear delineation between statutory authorities relating to licence conditions, etc.
IN CONFIDENCE 1	The approach described in Section 1.3 is supported.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME consider the DMP setting broad environmental objectives as a means of ensuring proposals are acceptable to the State may result in duplication with the EPA's Objectives (as outlined in the <i>Environmental Assessment Guideline 8 Environmental Factors and Objectives</i>). Therefore, the development of environmental objectives specific to mining activities is considered more appropriate for the DMP.</p> <p>The first objective shown in Table 1 of the discussion paper captures the overarching objective of Mining Proposals and should be the agencies primary objective for environmental regulation. The remaining objectives are 'secondary' and support the primary objective.</p> <p>CME recommend DMP adopt the first environmental objective shown in Table 1 of the Mining Proposal Reform Discussion Paper as the primary environmental objective for mining activities in Western Australia. The remaining objectives shown in Table 1 should be adopted as secondary objectives.</p>

Stakeholder	Comment
MWH Global	<p>It would be beneficial to adopt the EPA Environmental Objectives as ideally the EPA and DMP should present a consistent approach in protecting the environment. This will also reduce the work requirements for a Proponent should a Project require EPA assessment as well as a Mining Proposal.</p>
Martinick Bosch Sell Pty Ltd (MBS Environmental)	<p>With reference to Table 1 (preliminary expectations):</p> <ul style="list-style-type: none"> • The first seems so broad as to offer little guidance in preparing MPs. • The second appears sensible. • The third appears superfluous in the context of the proposed reform – it would be a specific requirement of MPs anyway. • The fourth appears sensible (particularly if Clearing Permit exemption will apply, as proposed), and in turn references a set of more specific expectations to guide proponents in preparing MPs. <p>With reference to Table 2 (application), it appears to combine outcome setting with aspects of risk assessment, which should be addressed in the risk assessment itself (cf. section 1.1). The table could thereby be simplified, and confusion avoided, by dropping the “activity threat pathway” and “risk assessment and mitigation strategies” columns.</p>
Dr Clint McCullough and Golder Associates Pty Ltd.	<p>Environmental objectives are poorly described and the examples given are not well-informed. We advise that professional ecologists with industry experience should have input into developing these better. For example, “5% impact” (Table 2) does not describe what this variable is now how it is measured which are both fundamental to the advised SMART requirements of closure criteria. This level of difference in ecological science is also almost impossible to detect with typically noisy biological populations. Similarly, there should be more extensive use of reference or baseline sites and in more ecosystem function based variables in such comparisons. These are already used in the industry through function assessment techniques such as LFA and Cedar Creek.</p>
AMEC	<p>Industry considers that the outcome based regulation model will require clear and measureable environmental objectives. The Discussion Paper indicates that the ‘<i>DMP will set broad environmental objectives as a means of ensuring proposals are acceptable to the State (or consider utilising existing objectives set by Government, e.g. the Office of the EPA objectives)</i>’.</p> <p>Great care and consideration is needed in determining environmental objectives that are relevant and measurable to the types and complexity of Mining Proposals referred to DMP.</p> <p>The Office of the EPA has previously expressed doubt about the relevance and validity of the DMP using the EPA environmental objectives.</p>

Stakeholder	Comment
	<p>It is extremely disappointing that this fundamental issue is still outstanding and has not been further developed by DMP.</p> <p><u>ALARP</u></p> <p>The Discussion Paper indicates that applicants will be required to meet two key environmental requirements, including the fact that risks have been reduced to ALARP (or other accepted environmental outcomes).</p> <p>AMEC cannot endorse the ALARP concept until such time as a clear definition and relevant thresholds have been agreed with industry.</p>
IN CONFIDENCE 2	<p>IN CONFIDENCE 2 consider the DMP setting broad environmental objectives (as a means of ensuring proposals are acceptable to the State) may result in duplication with the Environmental Protection Authority's Objectives (as outlined in the Environmental Assessment Guideline 8 Environmental Factors and Objectives). Therefore, the development of environmental objectives specific to mining activities is considered more appropriate for the DMP. IN CONFIDENCE 2 recommend DMP adopt the first environmental objective shown in Table 1 of the Mining Proposal Reform Discussion Paper as the primary environmental objective for mining activities in Western Australia. The remaining objectives shown in Table 1 should be adopted as secondary objectives.</p>
IN CONFIDENCE 3	<p>For waste material that remains on site, one environmental objective could be to have "geotechnically and geochemically stable non-polluting landforms" or something along this line.</p>
Fortescue Metals Group	<p>Fortescue supports the use of environmental objectives, and in particular environmental objectives that have already been adopted by Government, such as those set by the EPA within <i>Environmental Assessment Guideline 8 Environmental Factors and Objectives</i>. Fortescue does not support the development of new environmental objectives by DMP as this is inconsistent in removing unnecessary duplication from the approval process.</p> <p>In the interests of efficiency and clarity of purpose, it is vital that environmental objectives are uniform across Government. As an example, Fortescue notes that the first preliminary regulatory expectation outlined in Table 1 of the Paper is very closely aligned with the EPA's objective for Rehabilitation & Closure and that DMP have provided yet another, different closure objective, within the Closure Guidelines. This seems to represent further duplication which leads to inefficiency of process.</p> <p>Fortescue recommends that DMP adopts the EPAs environmental objectives for both mining proposals and mine closure.</p>
1.4 Management System	
Kelli McCreery	Please see Section 2.5.

Stakeholder	Comment
Clark Lindbeck & Associates Pty Ltd	As long as DMP retains the requirement that a management system is based on ISO 14000 and not a requirement to be certified.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME support the requirement for tenement holders to have and maintain a system for identifying and managing environmental risks. This approach is consistent with Environmental Management Systems (EMS) required under AS/NZS ISO 14001:2004 Environmental Management Systems – requirements with guidance for use (ISO14001), which have been implemented by most LMOs.</p> <p>However, as stated above for ‘risk-based assessment’, SMOs may not be as well-resourced as LMOs, and the development of non-prescriptive guidance for tenement holders on the expectations for the development and use of the EMS may be beneficial.</p> <p>CME recommend DMP develop non-prescriptive guidance to outline the basic criteria required for developing and maintaining a management system.</p>
MWH Global	The proposed mandatory requirement for a management system is to be commended.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	<p>While an EMS is no bad thing for a site to have, if appropriate to the scale of the operation, a requirement for an approved EMS appears at odds with the move to outcomes-based regulation, and is likely to increase the regulatory burden. Does DMP have or will it be provided with the resources to assess and police implementation of EMSs at mine sites?</p> <p>From the briefing on 7 October we attended, we understood that the management system will not need to be set out in MPs, however DMP should provide proponents with more information on how they intend to implement this requirement, and by when.</p> <p>We also caution that DMP should consult on this aspect with a wide range of proponents, and not just large companies with significant technical resources. Small scale miners and prospectors may have appropriate management strategies that they will not recognise as components of an EMS and may not be documented, but are contributing to achieving the desired performance outcome.</p>
IN CONFIDENCE 2	IN CONFIDENCE 2 recommend that if the Proponent gave evidence of ISO14001 current certification, this should then alleviate the need to discuss the management system further.

Stakeholder	Comment
Fortescue Metals Group	Fortescue supports the DMPs proposal for mine sites to have and maintain a system for identifying and managing environmental risks. Fortescue recommends that DMP provide further clarification on the requirements of the proposed management system and how DMP propose to approve a site's management system.
1.5 Spatial Capture	
Clark Lindbeck & Associates Pty Ltd	Agree with proposed action.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>Options presented by DMP in the discussion paper include whether the spatial approval associated with a Mining Proposal be based on an activity footprint, or with an approved envelope.</p> <p>CME has received feedback there is preference for an approved envelope to allow for flexibility for changes to the 'area of activity', noting the approved envelope may have restrictions. For example, the approved envelope may have areas where linear infrastructure is permitted, however pits and waste rock dumps are not.</p> <p>CME recommend the Mining Proposal guidelines include provisions for the activity footprint to be based on an approved envelope.</p>
MWH Global	How will the disturbance envelope for an MP, disturbance data in the AER, MRF and MCP be managed by the DMP? Would it not be that disturbance areas are current at the time of submission of an AER, MRF or MCP disturbance calculation?
Martinick Bosch Sell Pty Ltd (MBS Environmental)	<p>Loading spatial data for proposed areas of activity directly into a DMP geographic information system could save the time previously spent preparing disturbance tables and reduce the effort in regulating disturbance for both proponents and regulators, especially if properly integrated with AER and MRF reporting. However it is unlikely to eliminate the need for maps in mining proposals, which are an important means of communicating how a project will be developed and managed, through legends, labels, etc.</p> <p>We take it that the example areas shown in Appendix B would be automatically calculated from loaded spatial data, and not manually entered. We also take it that all proposed mining areas could be loaded from one GIS file, rather than one GIS file for each area. The system should be able to perform integrity checks for basic errors, such as overlapping areas.</p>

Stakeholder	Comment
Dr Clint McCullough and Golder Associates Pty Ltd.	Very important to build a spatial register of the mine infrastructure and waste landforms, suggest supply GIS files for database.
IN CONFIDENCE 2	IN CONFIDENCE 2 recommend that the spatial capture of planned areas should be linked in to the Mining Rehabilitation Fund (MRF) assessment, allowing DMP to provide an indication of when the MRF 'target cap' will be reached. It is recommended that the DMP ensure any data provided is secure and not available to third parties. A prepared shapefile upload is preferable if the Proponent uses a GIS system.
Fortescue Metals Group	<p>Fortescue has concerns regarding the security of submitted spatial information and how the DMP will maintain security of this information. Furthermore, Mining Proposals are publicly available and, whilst not stated, it is assumed that the shapefiles could also be made publicly available.</p> <p>Fortescue is also concerned that provision of spatial data will be used for auditing purposes rather than assessment of the environmental impacts of the proposal.</p> <p>Fortescue recommends that DMP provide more details on the requirement for shapefiles or other spatial data relating to the approval and how confidentiality of this information may be maintained through the new online system.</p>

Question – Should the spatial approval associated with a Mining Proposal be based on activity footprint, or within an approved envelope?

Kelli McCreery	<p>Not really my area, and I'm not sure I understand the question exactly, but I have observations after 18 years doing baseline biological surveys:</p> <ol style="list-style-type: none"> 1. It seems to me an envelope would involve more baseline work to begin with, but would involve less delay and cost in the long run, as well as producing better quality, more consistent baseline data and impact assessment. I think maybe some operators would balk at the upfront cost of it. But once the envelope had been assessed, there would be an end to it, it wouldn't matter if for example, someone apparently forgot to include the haul road. If approval is based on an envelope, I think the whole area should have been comprehensively assessed though. 2. A footprint reduces the area to be surveyed, but it seems to end up in piecemeal baseline work as plans change. The baseline data ends up a mess of inconsistent survey work. I imagine for proponents it involves smaller investments in the short term, but over the long-term surely involves greater overall expense, of which it seems to me the greatest must come from the delays involved. I find it annoying to hear miners go on about green tape, when they seem to me to be bringing it on themselves by taking the footprint approach. In terms of delays, botanical surveys for instance can add over a year for every new change in the footprint, due to the restrictions of seasonality and length of processing. But then, the reason usually given
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Stakeholder	Comment
	for doing it piecemeal is that smaller operators can only afford to advance works as funds become available.
Clark Lindbeck & Associates Pty Ltd	Based on approval within an approved envelope.
MWH Global	Within an approved envelope as this will eliminate the need for proponents to submit another Mining Proposal for a change in footprint
Martinick Bosch Sell Pty Ltd (MBS Environmental)	Within an approved envelope. Often when approvals are being sought, a site layout is at an early stage or subject to change. If restricted to a specific footprint, minor variations can result in multiple last-minute MP revisions, significant approval delays, or technical non-compliances of no real consequence. The permitted envelope should (where applicable, and with a suitable buffer zone) exclude features of particular environmental significance (such as rare flora or habitat, special landforms or watercourses). Within the permitted envelope, alterations to the proposed site layout should not cause an amendment of the MP.
Dr Clint McCullough and Golder Associates Pty Ltd.	Activity footprint may assist with the assessment of potential risk sources, for example if potentially contaminative processes are conducted in certain areas. May assist with the overall risk assessment process.
IN CONFIDENCE 2	IN CONFIDENCE 2 support the use of an 'approved envelope' as this will enable planning flexibility whilst not compromising outcomes.
IN CONFIDENCE 3	Within an approved envelop, provided the risk assessment is extended to the envelope at the time of submission. I.e. if a pit were to be extended in the future, there should be already a preliminary understanding of how the risk will change if the pit was going to be deepened or extended laterally. If the risk increases, then there may the requirements of further study?.
Fortescue Metals Group	<p>Fortescue questions the requirement for provision of spatial data within which approved activities must occur. The <i>Mining Act 1978</i> (Mining Act) already provides for this through the grant of tenements. A tenement is the legislatively approved envelope for activities approved under the Mining Act.</p> <p>Disturbance envelopes are required to be provided to the EPA under the Part IV process (where assessed). The DMP should adopt approved Part IV envelopes for its assessment purposes. Where a Project has not been subject to Part IV assessment, the boundaries of the tenement should suffice as the disturbance envelope.</p> <p>However, Fortescue is prepared to support approval based on a disturbance envelope within a larger Mining Act tenement which allows for flexibility for placement of infrastructure. This is at least consistent with an outcomes based approach to mining proposal</p>

Stakeholder	Comment
	<p>reform.</p> <p>Fortescue does not support spatial approval based on an activity footprint and believes this to be inconsistent with the outcomes-based approach of the mining proposal reform. The provision of spatial data for each activity will require more frequent Mining Proposal amendments by proponents whenever there is a small revision in infrastructure location that may sit outside of an approved activity footprint.</p> <p>Fortescue recommends that tenement boundaries be used as disturbance envelopes. If not, Fortescue would support the provision of a disturbance envelope as spatial data.</p>
1.6 Shift to a revision based submission	
Clark Lindbeck & Associates Pty Ltd	Agree - a long time overdue and hopefully will result in more flexibility to achieve the agreed outcomes.
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME welcome and support the shift to a version-based submission process to capture changes to a mining operation to replace the current process of issuing a separate approval for each alterations and expansion to the operation.</p> <p>The DMP's proposed notification process for minor changes that do not alter the project's risk profile past an acceptable threshold is supported by industry. However, CME question whether proponents will be required to notify DMP of the change before or after the works have commenced. Additionally, whether this notification process will be similar to that used under Section 45C of the EP Act, or if this will trigger an updated version of the Mining Proposal.</p> <p>CME recommend DMP clarify the notification process for minor changes to the Mining Proposal and whether this will initiate the requirement for an updated version to be submitted for approval.</p>
MWH Global	This will ensure that managing documents and environmental obligations for individual sites will become a lot easier. If a site changes proponent and requires a new mining proposal for site changes, will it still be possible to submit a new version rather than a complete new mining proposal? Will there be a table within each version of a mining proposal that outlines changes from the previous version?
Martinick Bosch Sell Pty Ltd (MBS Environmental)	We understand this to mean that only the aspects that change under a new proposal need to be updated – for instance, if a waste dump footprint increases and all other aspects, risks and outcomes stay the same, the dump area is the only change that needs to be made to the MP, and it then goes forward to the case officer for approval. If so, and if well implemented, this should be a good thing.

Stakeholder	Comment
	Revisions should also allow for changes to supporting knowledge and documentation (such as ecological studies), and allow a 'library' of documents to be built up over time for a site. Such a library could be an important resource for both regulators and proponents.
Dr Clint McCullough and Golder Associates Pty Ltd.	Agree. One live document with previous versions archived is a better system.
AMEC	The proposal to shift to a single Mining Proposal document which is updated through the life of mine appears to be sensible and will avoid the need for separate approval for each alteration and expansion. It is also appropriate that minor changes to a project's risk profile may be dealt with via a notification process rather than an approval.
IN CONFIDENCE 2	As commitments are also binding, it is recommended that new or revised Mining Proposals supersedes all previous versions.
Fortescue Metals Group	<p>Fortescue supports the shift to a revision based submission and considers it to be of significant benefit in reducing duplication and inconsistencies between mining proposals for the same mine site. Fortescue believes this will allow the approval to be more easily implemented by site.</p> <p>Fortescue also support the DMP's notification process for 'minor changes that do not change the project's risk profile past an acceptable threshold' however further clarification on this threshold is required. It is assumed that these minor changes and potential associated minor disturbance will be reported to DMP during the annual reporting process.</p> <p>Fortescue recommends DMP provide more guidance on the threshold that will be the difference between provision of a notification or a revised submission to the mining proposal.</p> <p>Fortescue also recommends DMP provide further clarification on how this approach will capture projects approved under current mining proposals.</p>
MINING PROPOSAL STRUCTURE	
2. General comment	
IN CONFIDENCE 1	Ideally Figure 3 should show 'Objectives' after 'Baseline environmental data' and before 'environmental risk assessment'. See 2.6 for more info.

Stakeholder	Comment
Martinick Bosch Sell Pty Ltd (MBS Environmental)	In general, the proposed structure and content appears sensible, noting our comment on management systems above.
Dr Clint McCullough and Golder Associates Pty Ltd.	The structure chart needs to explicitly include mine closure; currently it reads as if this consideration is not required. This could be achieved by partitioning the key structure elements into operational and closure phases e.g., Stakeholder Engagement, Environmental risk Assessment, etc.
IN CONFIDENCE 2	It is recommended this section enables all potential land uses to be considered, including low grade stockpiles, topsoil dumps, landfills etc.
IN CONFIDENCE 3	Closure planning should be included in the Mining Proposal; if nothing else the risk matrix should show how risks will be dealt with at closure
Fortescue Metals Group	<p>Fortescue believes the detail required in the proposed Mining Proposal template appears to be more detailed than the current Mining Proposal template. However, this may be reduced if DMP exclude those aspects of the project regulated under other legislation.</p> <p>With respect to the online submission system, Fortescue is concerned that entering information into separate fields will be difficult without synthesizing the technical content into a logical format, similar to the current mining proposal documentation. As a result Fortescue does not see any efficiencies as a result of the move to an online form-based system of entering disturbance details.</p> <p>Fortescue has document management processes which require internal sign off by different levels within the business. Fortescue believes the implementation of an online system for Mining Proposals, will duplicate current document management processes and may introduce human error during data entry.</p> <p>Fortescue recommends the DMP develop the online system so that draft proposals can be reviewed, consistent with general document management processes, before a final version is submitted.</p>
2.1 Mine Site Details	
The Chamber of Minerals and Energy of Western Australia (CME)	CME consider there is an opportunity for DMP to align the information required under section 'Mine Site Details' with existing online reporting [e.g. Annual Environmental Report (AER) and Mine Rehabilitation Fund (MRF)]. This would benefit both the proponent and DMP when preparing online reports as this information could be used to automatically populate these fields.

Stakeholder	Comment
	CME recommend DMP align the 'Mine Site Details' with the information required for other online reporting (such as the Annual Environmental Report or Mine Rehabilitation Fund).
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate. However, the system will need to be pre-populated with previously-approved areas of activity. The numeric data for most (or many) sites should already be in EARS2 from AERs however the spatial data is not, and for some older sites, may not even exist. We expect that DMP will require proponents to prepare and provide this information, and this could be a substantial amount of work.
IN CONFIDENCE 2	IN CONFIDENCE 2 do not submit a Mining Proposal for State Agreements as this is administered through Department of State Development. The information provided within the Mine Site Details should be aligned with what is required for the Annual Environmental Report (AER).
Fortescue Metals Group	<p>Fortescue does not support the submission of the 'Mine Site Details' data, where these same mine site details have already been provided to the DMP using the AER or MRF online systems. This data should be automatically generated from current AER and MRF submissions. A requirement to submit this data again to DMP is not consistent with the intention of the reforms to reduce duplication.</p> <p>Fortescue recommends DMP review the AER and MRF online systems and identify the data contained within those systems that can be utilised for the online mining proposal system.</p>
2.2 Activity Details	
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME has no specific comments related to the section 'Activity Details'. However, CME is concerned the example showing the application of 'Activity Details' in Appendix B includes 'Mine Activities' which are not aligned to those used for the AER or MRF.</p> <p>For example, Appendix B includes 'Roads' under 'Mine Activities approval is being sought for'. Currently, 'Roads' are not a disturbance category used for the AER or MRF, instead, this is captured under 'Transport or service infrastructure corridor'. This would result in an administrative burden for companies having to calculate disturbance data for AER / MRF.</p> <p>As stated above, DMP should align the information required for the Mining Proposal with those required for other online reports. As such, CME consider the 'Activity Details' should be aligned to the disturbance categories that already exist for the AER and MRF.</p> <p>CME recommend aligning the 'Activity Details' with the disturbance categories used for AER and MRF.</p>

Stakeholder	Comment
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate, provided that activity areas within each tenement will be automatically generated from loaded spatial data, as noted above, and not double-entered manually.
IN CONFIDENCE 2	IN CONFIDENCE 2 recommends the definitions of Activities align with the Disturbance categories, which are reported within the AER.
Fortescue Metals Group	<p>To allow the proposed online system to consider exemption of activities that are regulated under other legislation, it should be a requirement of the system to complete the 'Environmental Legislative Framework' section before completing the 'Activity Details' section. This would allow for a logical sequence of identifying activities that do not require approval under the Mining Act and those that require assessment by the DMP and would improve the efficiency of the online system. For instance, identifying that a water bore is regulated under the RIWI Act would then automatically remove water bores from the Activity Details Section.</p> <p>Fortescue recommends that DMP design the online system to allow for the Environmental Legislative Framework to be completed before the Activity Details Section.</p> <p>Fortescue recommends that the terminology for what is considered an 'activity' in the online Mining Proposal form should be inconsistent with the terminology used for AER and MRF online systems.</p>
2.3 Environmental Legislative Framework	
Clark Lindbeck & Associates Pty Ltd	Duplication by statutory authorities MUST be removed. Even today, responses to MP's from two departments encompass the same questions or comments. This overlap must be removed.
The Chamber of Minerals and Energy of Western Australia (CME)	CME support the DMP identifying opportunities to streamline assessment by reducing regulatory duplication. As discussed in the 'Baseline Environmental Data' section below, CME considers it is appropriate to for heritage to be included under Section 2.3 Environmental Legislative Framework.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	This requirement seems sensible. DMP should consider offering a 'checklist' of standard legislation within the MP entry system or associated guidelines as a prompt to help proponents complete this section.
Dr Clint McCullough and Golder Associates Pty Ltd.	Environmental Offsets are being increasingly considered by the OEPA, especially at mine closure. If closure planning indicates they may be required to mitigate impacts, offsets should be explicitly explored and discussed with regulators and other stakeholders at early mine planning stages such as approvals.

Stakeholder	Comment
IN CONFIDENCE 2	It is suggested that the DMP clarify how a Mining Proposal will differ from the Part IV and Part V approvals of the EP Act. This reform should not add to duplication within the regulatory system.
Fortescue Metals Group	<p>Fortescue supports the exemption of activities regulated under other legislation from the requirement for assessment under a Mining Proposal, however further clarification is required from DMP as to how these exemptions would be applied.</p> <p>For projects issued Ministerial Statements under Part IV of the EP Act, the project and its associated environmental impacts and management will have been addressed under the Part IV approval, with minimal impacts left to include in the mining proposal.</p> <p>Fortescue recommends DMP liaise with EPA and provide industry with a transparent process as to how projects assessed under both Part IV of the EP Act and Mining Act will be assessed, so as to minimise duplication within the approval process.</p> <p>As discussed above, duplication currently exists where conditions of a Ministerial Statement require a Mine Closure Plan to be prepared and approved by the EPA, and by the DMP under the Mining Act. Fortescue considers that where mine closure has been assessed under Part IV, this should be exempt from approval under the Mining Act.</p>
2.4 Stakeholder Engagement	
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME support DMP's intent for early engagement between proponents and key stakeholders to enable operators to better understand and manage stakeholder expectations.</p> <p>This section aligns to the <i>Guidelines for Preparing a Mine Closure Plan</i> (Section 4.7 of the revised guidelines) and CME support the DMP's intent for proponents to engage with stakeholders to address both the Mining Proposal and Mine Closure Plan.</p> <p>However, this process may duplicate the stakeholder engagement process required when seeking tenure and Part IV approvals under the EP Act. CME considers a cross-government approach to stakeholder engagement for various environmental approvals should be made an immediate priority to minimise duplication.</p> <p>CME recommend DMP work with EPA, the Department of Environment Regulation and the Department of Local Government and Communities to determine a cross-government approach for proponents to engage stakeholders for environmental approvals.</p>
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate, however the means by which it is provided should be determined. Some proponents already use stakeholder management systems and to re-enter this information into another system may be onerous if not well implemented. Proponents should be able to load this information in an agreed format, as well as manually entering the information into the MP system.

Stakeholder	Comment
Dr Clint McCullough and Golder Associates Pty Ltd.	The three prime considerations of stakeholder engagement should be emphasised: 1/. Early 2/. Frequent 3/. Honest.
AMEC	<p>The mining industry fully appreciates the value of effective early consultation and constructive stakeholder engagement in order to develop a 'social licence to operate'.</p> <p>The proposed additional requirements to include stakeholder engagement details in the Mining Proposal needs to be balance with the size, nature, complexity and location of the project.</p>
IN CONFIDENCE 2	Stakeholder engagement is supported, providing that engagement under other regulations can be used.
Fortescue Metals Group	<p>Stakeholder engagement will occur throughout the life of a Project, from feasibility through to closure. The level of consultation undertaken and the stakeholders engaged will vary depending on the stage, size and complexity of the Project.</p> <p>Stakeholder engagement should not be a legislated requirement under the Mining Act and approval of a mining proposal should not be dependent on demonstrating a predetermined level of stakeholder engagement, which will be different for each Project.</p> <p>If demonstrating adequate stakeholder engagement is a requirement for approval, this would be a subjective determination by the assessing officer and is not in any way transparent.</p>
2.5 Baseline Environmental Data	
Kelli McCreery	<p>It's not really clear how the risk-based approach is going to apply to species and ecosystems. The wording in places implies that existing information will be used to assess risk? The problem is that not enough information currently exists for large areas of the state, so how is risk assessment based on existing information going to be possible? A search showing nothing of known conservation significance doesn't mean there is nothing there, it usually means that no surveys have been done in the area. And to anticipate a potential response, the framework planning for the state-wide biodiversity database is not on track to remedy this, which is something I believe should be looked at as well. Also along these lines, site information will only be required to be kept onsite in a management system. Shouldn't there be a requirement to also have information fed into a central repository as well, to begin to accumulate information? That is the type of information that would eventually actually enable informed risk assessment. I endorse more detail being provided on the level of baseline data required for biological surveys in Phase 2. However the problem across all environmental impact assessment processes has been that these guidelines are published but then not enforced. A lack of enforcement is leading to a race to the bottom in terms of scope and quality of baseline data across EIA. I just wanted to register this comment for Phase 2 in advance.</p>

Stakeholder	Comment
<p>The Chamber of Minerals and Energy of Western Australia (CME)</p>	<p>Options presented by DMP in the discussion paper include to what extent land use, community and heritage should be considered by the Mining Proposal.</p> <p>Feedback received indicates consideration of land-use, community and heritage should be dependent on whether it is identified as part of the risk-based assessment. However, DMP should avoid duplication with heritage approvals such as Section 18 approval under the <i>Aboriginal Heritage Act 1972</i>.</p> <p>CME consider this duplication could be avoided if heritage is included under Section 2.3 Environmental Legislative Framework.</p> <p>CME recommend inclusion of heritage under the 'Environmental Legislative Framework' section of the Mining Proposal guidelines.</p>
<p>Martinick Bosch Sell Pty Ltd (MBS Environmental)</p>	<p>The information required seems appropriate, and consistent with current MP requirements. We understand that only a basic summary would need to be entered into the MP lodgement system, and more detailed supporting information (such as flora and fauna surveys) attached as complete documents. It would be good to know how DMP plans to store, manage, use and distribute this information, as it is a potentially valuable resource for current and future proponents.</p>
<p>Dr Clint McCullough and Golder Associates Pty Ltd.</p>	<p>Section C of table 3 does not make reference to AMD in the 'waste' characterization section. Geology section asks for 'basis' description of mineralization. Suggest that a very good understanding of the geology is the basis of the waste characterization process. Seems at odds with requirement of detailed 'waste' characterization. It may not be possible to determine what rock types constitute 'waste' an 'ore' during early mine development. All material should be characterized to facilitate robust and flexible assessment. Specific mention should be given to tailings, early tailings characterization is important in addition to waste rock, it often lags in characterization exercises AMD as a threat to potential future value of land and water resources is the most important legacy issue for mining and should be emphasized. Encouraging the use of standard methods and industry codes of practice should be encouraged if baseline data collection methodologies are to be easily understood and compared by regulators. The use of reference sites should also be considered as in many options project disturbance has already begun or baseline values are effected by another party e.g., other regional mining activities.</p>
<p>IN CONFIDENCE 2</p>	<p>It is recommended that the DMP clarify how this will apply to existing operations with no existing baseline and how older legacy sites be treated under the proposed reform. There will be some duplication between this and the Mine Closure Plan Guidelines.</p>
<p>Fortescue Metals Group</p>	<p>Fortescue does not support provision of baseline environmental data that has been provided and assessed previously to meet Part IV EP Act or federal approval. The Paper is not clear on how this information is to be provided and how this reduces duplication and improves efficiency. Baseline environmental data is also required to be included in Mine Closure Plans and under Part V of the EP Act (Native Vegetation Clearing Permits, Works Approvals and Licences). The proposed reforms do not appear to consider how the provision of baseline data can be integrated across various approvals required under different legislation. This is where reforms</p>

Stakeholder	Comment
	should be focussed.
Question - To what extent should a Mining Proposal consider land-use and heritage?	
Kelli McCreery	Everyone else has to consider these things, I think in the long run if they are not taken into consideration, people will start to question why mining is exempt from the social responsibility expected from the rest of us. Currently not even the highest levels of protection that the community can bestow can stand against a mining proposal. I'm thinking of nature reserves...which are both heritage and a land use. I think sometimes it's forgotten that these projects are usually more often than not on other people's land, including publicly owned land.
MWH Global	A Mining Proposal should consider heritage, land use and community to the same degree as environmental factors i.e. assess impacts to heritage, land use and community, predominantly through consultation with stakeholders, but including assessments where required.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	To the extent that it is relevant, and this should be determined from the risk assessment. Where appropriate agreements for access and use have been entered into with land users/ owners (traditional or modern) under relevant legislation, these should be documented in the MP, but not necessarily subject to further assessment and approval by DMP.
Dr Clint McCullough and Golder Associates Pty Ltd.	Current and proposed end land use is important vitally important for impact assessment. This should be well thought out based upon stakeholder engagement at the beginning of the mine life-cycle.
IN CONFIDENCE 2	There are numerous old quarries, other land uses that are required to be rehabilitated. It is recommended that the DMP address how the reformed Mining Proposal will consider these sites and if a full proposal would be required. Heritage can be included within Mining Proposals, provided that the requirements of Section 16 and 18 of the <i>Aboriginal Heritage Act 1971</i> is not duplicated.
Fortescue Metals Group	<p>Fortescue does not support the consideration of end land-use and heritage within the mining proposal. Where a mining lease has been granted, it is clear that the Government wishes for this area to be developed for the economic prosperity of the State. The granting of a tenement is dependent on issues such as native title and other land-use planning matters being resolved. Further to this, heritage matters are currently and will continue to be managed primarily under the <i>Aboriginal Heritage Act 1972</i>. Therefore, the inclusion of assessment of land-use and heritage would not meet the intention of the Mining Proposal reform in reducing regulatory duplication. End land-use is important in determining closure criteria; however, this is a component of the Mine Closure Plan rather than the Mining Proposal.</p> <p>Fortescue recommends DMP review the Closure Guideline and remove components of the proposed mining proposal that would be</p>

Stakeholder	Comment
	duplicated in both processes.
2.6 Environmental Risk Assessment	
Kelli McCreery	In leaving the risk analysis to the proponents, it is stated that the resulting documentation will need to be high quality, what is the DMP going to use as a benchmark for quality? The quality more often than not is poor now, and I don't see any regulatory body challenging that at any level currently. Also, by the time documents come through to you, there have been years spent and who knows how much money on baseline studies, shouldn't you provide certainty up front of what is required? For everyone's sake, conservation and mining. If at the end, the quality is poor, are you going to ask proponents to go back and do it all again? I can't see how this improves things. Also, in Phase 2, where you intend to provide more detail on the level of baseline data required in impact assessment, I'd like to request that it is written at a detailed technical level, not broadly and ambiguously, again because then at least everyone knows what is expected up front. And that the requirements are actually enforced as well.
Clark Lindbeck & Associates Pty Ltd	Agree with the proposed process. Having worked with the petroleum risk based system, have no problems with this proposal. It is welcomed.
IN CONFIDENCE 1	Prior to this section, or within this section, the environmental objectives (for key environmental factors) should be identified. This provides context for the risk assessment to identify the risks that may compromise objectives being met.
MWH Global	How will the risk assessment for a project MP & MCP interact, in terms of the potential for residual risks to be different between the temporal context of Operations and Closure? (I.e. Some risks may be high or even very high for closure, but are likely to be low for operations). What is temporal context for an MP risk assessment? for the life of the operation? or 100 years after closure? 1000 years after closure? or in perpetuity? Given that risk assessments are so subjective and dependent on the experience and knowledge of the personnel undertaking them, can you consider making it a requirement that risk assessments are conducted according to the Australian standard AS/NZS ISO 31000:2009 and the Risk Assessment and Management booklet of the Leading Practice Sustainable Development Program for the Mining Industry Series?
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate, however the means by which it is provided should be determined. Generally risk assessments will be developed, reviewed and updated in a software tool like Excel or Word, and to manually re-enter this information into a web form could be onerous. Proponents should be able to upload a risk assessment table in an agreed format, as well as manually enter it into the MP system.
Dr Clint McCullough and Golder Associates Pty Ltd.	As commented in 1.1. Flexibility in risk assessment process should be constrained. Definition of risk criteria could be standardized. Risk assessments must be relevant and commensurate in their perspective and diligence to the stage of mining and distance from

Stakeholder	Comment
	closure. The use of the Precautionary Principle should be advised in low knowledge environments. Alternatively, uncertainty can be captured as an additional risk-framework variable.
IN CONFIDENCE 2	It is recommended that DMP provide an example, or suggested minimum requirements, for identified risks and mitigating actions and how these would be monitored for compliance. It is also suggested that the DMP clarify if this section would be where the Clearing Principles would be considered.
IN CONFIDENCE 3	A Source-Pathways-Receptor analysis could be a powerful tool to assess the risk and make sure all the data are used to understand the environmental implications of the mining operation
Fortescue Metals Group	See section 1.1 Risk Based Assessment.
2.7 Environmental Outcomes (including Environmental Performance Criteria and Environmental Monitoring)	
Kelli McCreery	This section states that the Environmental Outcomes must be within the bounds of the environmental objectives in Section 1.3. In Section 1.3, it states that DMP environmental objectives to include: 'Land clearance to be undertaken in accordance with the native vegetation clearing principles'. Most projects are currently approved in contravention of one or more of the clearing principles. This relates to my comment in Section 2.5, what is the point of producing these policies if they aren't going to be enforced?
Clark Lindbeck & Associates Pty Ltd	Agree. Only concern is setting detailed prescriptive criteria prior to any project getting off the ground. Criteria are better set after project commencement (say 2 years) when issues not identified in the initial project assessment (by the proponent) or changes to the project have been identified which may impact completion criteria.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate, although further detail should be provided to proponents in future draft MP guidelines or industry briefings, in particular how this will relate to the monitoring and reporting required by other departments such as DER and DoW, to ensure duplication or conflict does not result.
Dr Clint McCullough and Golder Associates Pty Ltd.	SMART approach adopted is good. Will rely on the DMP to have the ability to assess what is achievable and realistic. The example given of a 'standard' is a guideline; this is not a matter of semantics, the two are very different from a regulatory perspective (Jones 2011). References cited Jones, H. (2011). Three "R's" for mine closure - responsibilities, regulations and results. Proceedings of the Sixth International Conference on Mine Closure. Lake Louise, Canada. Fourie, A.; Tibbett, M. & Beersing, A. (eds.), Australian Centre for Geomechanics (ACG), 29-38pp.

Stakeholder	Comment
AMEC	<p>AMEC notes the intention to ensure that performance can be managed against the proposed environmental outcomes appropriate performance criteria will need to be set.</p> <p>It is critically important that all performance criteria are measurable and achievable. It is essential that great care is taken in developing such criteria, which are acceptable and measurable by industry.</p>
IN CONFIDENCE 3	<p>Environmental outcomes should be agreed by all stakeholders. I think it is important to stress that the EO should be "negotiated" and "agreed on" by DMP, the proponent "and potentially the community" at the beginning of the process. Consultation and collaboration with DMP should be a priority. The risk matrix should be intended as a dynamic tool that evolves as the understanding of the system grows through monitoring. There should be mechanism in place to facilitate updates of the risk matrix as data become available. This way any change in risk can be identified early on and mitigation strategies put in place accordingly.</p>
Fortescue Metals Group	<p>Fortescue support the use of environmental outcomes in principle. Further information is required regarding how performance criteria are developed and agreed to. There is concern that the consultation required between the proponent, the DMP and other agencies to agree on the environmental outcomes and performance criteria would cause delay to the assessment of the Mining Proposal. The requirement to consult with other regulatory bodies such as EPA, Department of Environment Regulation (DER), Department of Water (DoW), Department of Parks and Wildlife (DPaW) is already a feature of the current mining proposal approval system. The proposed reforms do not appear to meet the objective of improving efficiencies. Fortescue recommends that DMP consult with other regulatory agencies and receive agreement on suitable outcomes as part of the reform process, rather than individual assessment for each submitted Mining Proposal.</p> <p>Fortescue also recommends that DMP stipulate minimum expectation for environmental performance criteria and thresholds.</p>
2.8 Environmental Reporting	
Kelli McCreery	See Section 2.5.
Clark Lindbeck & Associates Pty Ltd	Again, duplication between statutory authorities and duplication of inspection activities must be removed.
IN CONFIDENCE 1	The proposed requirement for mandatory environmental incident reporting is not supported for incidents that currently require reporting to another agency (e.g. Department of Environment Regulation) as this creates unnecessary duplication.

Stakeholder	Comment
<p>The Chamber of Minerals and Energy of Western Australia (CME)</p>	<p>Environmental reporting requirements currently faced by resource companies significantly contribute to the sectors 'cost-of-doing' business. As such, CME is concerned with the DMP's intent to introduce mandatory environmental incident reporting in future legislative amendments.</p> <p>CME consider the introduction of mandatory environmental incident reporting for events such as spills, threatened fauna deaths and unauthorised clearing, will result in duplication with the reporting required under the EP Act, <i>Contaminated Sites Act 2003</i> and other reporting. Specifically:</p> <ul style="list-style-type: none"> • Section 72 of the EP Act, requires companies to report discharges of waste likely to cause pollution or environmental harm. • Compliance reporting required by Ministerial Statements and Native Vegetation Clearing Permits approvals which also requires proponents to advise the relevant department (i.e.Environmental Protection Authority, DMP, and Department of Environment Regulation) of any potential non-compliance with the conditions of approval. • Section 11 of the <i>Contaminated Sites Act 2003</i> requires land owners, occupiers and polluters are required to report all known or suspected contaminated sites to DER using Form 1. • Incident and annual compliance reporting is required by Part V approvals (works approvals and licences) under the EP Act. The Annual Audit Compliance Report requires licence holders to report on their compliance with the conditions of their licence. • Threatened fauna sightings and mortalities are required to be reported to the Department of Parks and Wildlife using the Fauna Report Form or another agreed form (such as quarterly summary reports). <p>CME recommend the DMP complete a review of all mandatory environmental incident reporting currently required in Western Australia to prevent duplication in future legislative amendments to the <i>Mining Act 1978</i>.</p> <p>Where projects are 'not assessed' under Part IV of the EP Act, it may be appropriate for the DMP to enforce mandatory environmental incident reporting, however this should be limited to 'high risk' incidents and linked to the environmental outcomes. Further, DMP should develop detailed guidance on thresholds of reporting of incidents, process for reporting incidents, and action required to be taken.</p> <p>DMP should also consider utilising existing reporting arrangements (e.g. AERs) prior to implementing a process for incident reporting. For example, the AER includes Section 6.5.1 'Conditions' and Section 6.5.2 'Commitments' which allows proponents the opportunity to report on non-compliances / incidents against their Mining Proposal.</p>

Stakeholder	Comment
	CME recommend DMP develop detailed guidance on thresholds of reporting of incidents, process for reporting incidents and action required to be taken. Where possible, utilisation of existing processes under the AER should be maximised.
MWH Global	Will the performance criteria detailed in Mining Proposals be linked to EARS2 for online AERs? So that each annual reporting period the KPIs/performance criteria can be assessed efficiently to streamline the reporting process.
Martinick Bosch Sell Pty Ltd (MBS Environmental)	The information required seems appropriate, however clear requirements should be established for incident reporting (the scale of the incident and/or impact), and these should align with any reporting requirements imposed by other agencies such as DER and DoW. As noted in the discussion paper, this will also require changes to AER requirements and systems.
AMEC	<p>The proposal to introduce mandatory environmental incident reporting needs to be clearly defined to avoid unnecessary reporting, and the associated additional administration and compliance burden on DMP and Industry.</p> <p><u>Combined Reporting</u></p> <p>As detailed in separate correspondence to you dated 7 October concerning the AER Guidelines there is an opportunity to consider the merits or otherwise of combining the various reports required by DMP into one 'essential information only' reporting format.</p> <p>In fact, a suggestion was made at the RER Industry Briefing Session on 7 October that consideration should be given to include the Mine Closure Plan within the Mining Proposal. The proposal deserves further analysis by the Industry Reference Group.</p>
IN CONFIDENCE 2	There needs to be clear thresholds for any mandatory reporting, with no replication of reporting required under Part IV or Part V of the EP Act, as well as other legal instruments (e.g. Contaminated Sites Act 2003).
Fortescue Metals Group	<p>Fortescue has concerns with DMPs proposal in the Paper to introduce 'mandatory environmental incident reporting in future legislative amendments (e.g. spills, threatened fauna deaths, unauthorised clearing)'. Fortescue considers the proposed changes will duplicate incident reporting requirements under other legislation. The additional reporting requirements proposed contradict the intention or the reform to reduce duplication.</p> <p>Examples of requirements for Fortescue to report environmental incidents at its</p> <p>Solomon mine site are provided below:</p> <ul style="list-style-type: none"> Ministerial Statement 862 condition 4-5 where the 'proponent shall advise the Chief Executive Officer (CEO) of the Office of the EPA (OEPA) of any potential non-compliance within seven days of the non-compliance being known',

Stakeholder	Comment
	<ul style="list-style-type: none"> • Ministerial Statement 862 Condition 4-6 compliance reporting requires annual reporting of compliance against conditions of the statement to the CEO of the OEPA, • Annual Environmental Reporting for Part V EP Act Licence L8464/201 0/1, requires annual submission to DER of: <ul style="list-style-type: none"> ○ Details regarding failure or malfunction of pollution control equipment or any incidents which has caused, is causing or may cause pollution ○ Annual Audit Compliance Report for compliance with licence conditions ○ Target and Limit exceedances ○ Summary of complaints, • Notification Requirements for Part V EP Act Licence L 8464/2010/1, requires notification to DER of 'any failure or malfunction of any pollution control equipment or any incident which has caused, is causing or may cause pollution' within the form N1 by 5pm of the next working day. • Under Section 72 of the EP Act Fortescue is required to report, to the DER, incidents of unauthorised discharge that have caused or have the potential to cause pollution, • Fauna relocations are reported to DPaW six monthly as per conditions of licences issued under the <i>Wildlife Conservation Regulations 1970</i>, • Threatened fauna mortalities are reported to DPaW in accordance with the <i>Wildlife Conservation Act 1950</i> and commitments made in the Solomon Fauna Management Plan required by Ministerial Statement 862 and Controlled Action EPBC 2010/5567, <p>Fortescue also has concerns regarding the DMP's ability to manage the workload, associated with the large volume of data that would be submitted by proponents, should these reporting requirements be implemented.</p> <p>Fortescue recommends that prior to amending the <i>Mining Act 1978</i>, as proposed in the Paper, DMP liaise with other agencies and identify all current environmental incident reporting requirements to prevent any duplication.</p> <p>Fortescue currently submits disturbance data to the DMP online within the Annual Environmental Reporting (AER) online system and the Mining Rehabilitation Fund (MRF) online system. This process already places a heavy administrative burden on Fortescue and there are concerns that DMP will potentially have three online systems tracking disturbance and other environmental incidents, by</p>

Stakeholder	Comment
	<p>activity, by tenement, which are not integrated.</p> <p>Fortescue recommends that DMP review the two current online systems for AER and MRF and ensure integration of these into the proposed Mining Proposal system.</p>
2.9 Management System	
Clark Lindbeck & Associates Pty Ltd	Agree
MWH Global	At what point in the process will it be expected that management plans are prepared i.e. will the Mining Proposal contain commitments to prepare management plans as part of the development of the EMS or will they need to be prepared for assessment at mining proposal stage?
Martinick Bosch Sell Pty Ltd (MBS Environmental)	As noted above, we understand that this requirement is to be implemented separately and only mentioned in the MP, rather than set out in detail.
Fortescue Metals Group	Fortescues has concerns with DMP's statement that "The complexity of the system will reflect the complexity of the operation and the local environment". Fortescue believes that proponents should have a management system that is fit for purpose and can cope with any project irrespective of its level of complexity of the environment.
Tables and Appendices	
Clark Lindbeck & Associates Pty Ltd	No comment
The Chamber of Minerals and Energy of Western Australia (CME)	<p>CME reiterate, where possible, the examples shown in the appendices must be consistent with other DMP guidance material such as the <i>Guidelines for Preparation of an Annual Environmental Report</i>, the <i>Mining Rehabilitation Fund – Guidance</i> and <i>Guidelines for Preparing a Mine Closure Plans</i>. This matter is also discussed in 'Activity Details' above.</p> <p>Feedback received indicates the examples included in the appendices of the <i>Guidelines for Preparing a Mine Closure Plans</i> are useful for proponents. CME considers the inclusion of examples showing different types of projects (i.e. projects requiring approval under Part IV, etc.) in the Mining Proposal guidelines would be beneficial for proponents.</p>

Stakeholder	Comment
	CME recommend the Mining Proposal guidelines include examples showing different types of projects approved under other environmental legislation (such as Part IV and Part V of the EP Act) and the application of the Mining Proposal guidelines against these.
IN CONFIDENCE 2	Baseline data table – there are significant overlaps with this data and that required by the Mine Closure Plan Guidelines. IN CONFIDENCE 2 suggest referencing the Mine Closure Plan if there is duplication with this information.
Fortescue Metals Group	<p>Fortescue is currently unclear as to how Tables and Appendices will be uploaded onto the proposed online system.</p> <p>Fortescue recommends DMP provide guidance and templates as to how data within Tables and Appendices will be required to be submitted.</p>