



Sand, Rock
and Gravel

Extractive Industry Association of NT Inc. (EIA) “Have your Say” response to the Northern Territory Government’s, draft Environment Protection Legislation Amendment (Mining) Bill 2023 (Legislation)

Overview.

General community acceptance of massive development of the Northern Territory (NT) has been confirmed by the 2020 re-election of the Gunner/Fyles NT Government (NTG) with its articulated ambitious goal of a \$40 billion economy by 2030. This goal is supported by amongst other reports, the recent Territory Economic Reconstruction Commission’s (TERC) 2020 report¹. It is impossible to have this massive development without a vibrant extractive industry (Extractives) as the products, rock, sand, and gravel are the building blocks of all physical infrastructure. It would be possible to argue extractive operations are an essential product and service. The Extractive Industry Association of NT Incorporated (EIA)² represents most of the sectors participants and our members are much of the annual revenue of \$45 million generated in 2019/2020³.

EIA Position.

EIA has consistently argued this proposed transition of Extractive (Mining) Legislation from Department of Industry Tourism and Trade (DITT) to Department Environment Parks & Water Security (DEPWS) is both unnecessary and most likely damaging to the industries confidence in this essential sector for the Northern Territory’s prosperity. (See EIA’s February 2021 submission to the Consultation Paper) Shifting to this so-called best practise, second bullet point of E1., Mining and Environment Reforms Program Fact Sheet (MERPFS) to our understanding has not improved either environmental outcomes or improved harvesting of resources in other jurisdictions that have implemented this regime.

Despite this EIA position is.

EIA agree the proposed Legislation may achieve in principle the objectives as defined in the MERPFS E1: Environmental mining reform program.

- *clearly separates responsibilities for environmental regulation of mining activities (by the Department of Environment, Parks and Water Security; DEPWS) from industry promotion and responsibilities to encourage the exploration and development of mineral deposits (by the Department of Industry, Tourism and Trade; DITT)*
- *aligns environmental regulation of the exploration, extractive and mining operations industries with best practice*
- *simplifies the approvals process for regulating the environmental impacts of mining activities, and*

¹ [Territory Economic Reconstruction Commission - Final Report](#)

² [Extractive Industry Association of NT Inc. \(EIA\)](#)

³ [NT Government Production and Value of Mining Statistics](#)



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- *provides greater transparency of the approvals process, which the community will trust.*

EIA agree the proposed Legislation may achieve the objectives of (MERPFS) E2: Environmental licensing framework for mining activities.

- *separate responsibilities for environmental regulation of mining activities (by the Department of Environment, Parks and Water Security; DEPWS) from industry promotion and responsibilities to encourage the exploration and development of mineral deposits (by the Department of Industry, Tourism and Trade; DITT)*
- *establish clear, consistent and transparent environmental obligations*
- *establish a streamlined, tiered and risk-based licensing framework and processes for mining activities*
- *improve public confidence in the mining regulatory framework.*

EIA however have significant concerns about the definition and implementation of these licenses MERPFS E3: Environmental approvals and environmental (mining) licenses specifically because despite being noted in this document that,

*“Most mining activities, particularly those of lower impact and risk such as exploration activities and **most extractive operations**, are unlikely to require environmental impact assessment. Mining activities that can meet the risk criteria for an environmental (mining) licence with standard conditions or modified conditions are **less likely** to require referral to the NT EPA”.*

there to the best of our knowledge is no practical definition of “significant impact and/or lower impact” and the EPA’s published guidance on [Referring a proposal to the NT EPA](#) are at best vague. Our concern is extractives could be caught up in the need to prepare Environmental Impact Statement’s (EIS) and/or Environmental Impact Assessment’s (EIA) as EIA don’t know the above-mentioned definitions.

EIA have further concerns listed below.

- EIA don’t see the need or rationale for extractive operations to be included in the legacy mines legislation. EIA understand some 900 legacy mines and or legacy features have been identified and none have been from extractive permits or leases, neither to the best of its knowledge has any of the current MRF’s been expended on extractives or planned to be expended. Legislation page 12, 26, 27, 28.
- the definitions of “risk criteria and standard conditions” Environment Protection Legislation (Mining) Act 2023 Legislation page 18 & 19 and the ability for them to be changed potentially leading to stakeholder uncertainty as to the tenure of their licence. It’s appealing to us that a “standard” licence “doesn’t require assessment however our concern is the vagueness of defining the parameters of what defines a “standard” licence.



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- The vagueness of “reporting requirements” Legislation page 21
- The vagueness around “qualified person” requirements Legislation page 21
- Reporting and recording requirements of “notifiable incidents” requires a clearer definition of what is a notifiable incident. Legislation page 86 & 120

EIA are positive to the following.

- One license for one or multiple extractive operations. Legislation page 22
- The Performance Improvement Plan option for underperformance. Legislation page 33
- Life of extractive activity licence and transferability. Legislation page 40 & 43
- Defined timelines for approvals. Legislation page 28
- Transition to new legislation time frames. Legislation page 101

EIA Conclusion.

“The devil is in the delivering.”

If the positive of this shifting of Legislation and Regulation from DITT to DEPWS is achieving a separation of duties the corresponding negative is a void left in that there is no longer an NTG department focused on promoting the harvesting of the massive mining resources, the Northern Territory possesses for the betterment of humankind.

The change may be billed as best practise however the outworking of this so-called best practise should be the finding and harvesting of the resources more efficiently forever for people to use and this has not to the best of our knowledge been demonstrated in other jurisdictions that have moved to this so-called best practise.

EIA are a long way from convinced that extractives dealing with two Government Departments simplifies the approvals process. This has not been our observation or experience.

This proposed Legislation will give more transparency. The challenge to this transparency is that extracting materials for the earth is a technically rich process and input from all and sundry needs to be calibrated against their understanding of the highly sophisticated processes being undertaken. It is not obvious to us how that assessment is to be conducted sensibly.