

**Integrated Mining Policy:
Draft Secretary's Environmental
Assessment Requirements for State
Significant Mining Developments
Submission**

NSW MINERALS COUNCIL

July 2015



Executive summary

The NSW Minerals Council (NSWMC) welcomes the opportunity to comment on the draft *Standard Secretary's Environmental Assessment Requirements for State Significant Mining Developments* (draft SEARs).

The NSW Government's initiative to establish a clear policy framework for the regulation of mining is commendable. A Standard SEARs forms a critical part of the *Integrated Mining Policy* framework and would provide clarity on the required detail to be supplied in the Environmental Impact Statement (EIS – one of the core components of the development assessment process. NSWMC supports a rigorous assessment of major projects and issuing of relevant and clearly expressed SEARs that address site-specific mining constraints, risks and issues and, in turn, support the preparation of detailed EIS and development applications that focus on significant issues associated with a particular development.

It is critical that the SEARs not be viewed in isolation from the Preliminary Environmental Assessment (PEA) phase of the assessment process (currently covered by the draft *Mine Application Guidelines*) or an (updated) EIS Guideline. As sequential steps in a process, there is an inextricable link between the PEA, the SEARs and an EIS Guideline. The PEA provides the basis for the request for the SEARs, which in turn shape the EIS.

The draft SEARs largely represent a consolidation of existing practice. Whilst the process of consolidation is in itself commendable, in their current form, the draft SEARs leave unresolved a number of issues, which include:

- **Duplication with the Mine Application Guideline** – The requirements for an EIS are listed in the SEARs, the Mine Application Guideline (MAG) and potentially in any EIS guidelines.
- **Requirements for detail that is best left to management plans** – various sections outline requirements that are not appropriate or too complex for an EIS stage (for example, rehabilitation schedules; inclusion of an Air Quality Management Plan including emission control measures; monitoring of noise, air, water and waste; compliance assurance programs; and reporting requirements and arrangements). These types of requirements should be transferred to Environmental Management Plans and Mine Operation Plans.
- **Requirements to provide a JORC resources and reserves statement** – JORC statements were designed for a different purpose. The headline figures that would be contained in a recent JORC statement can be provided in lieu of having to either re-do a JORC statement or provide an early but still confidential JORC statement.
- **Clarity on the application of standard SEARs to smaller projects and modifications** - The SEARs should be sufficiently flexible and scalable to accommodate both greenfield and brownfield projects and modifications of varying size and complexity.
- **Application to both coal and metalliferous SSD mining projects** – References to 'coal' should be removed or contextualised, to factor in metalliferous mines.
- **References to other government policies require clearer specification, including the avoidance of draft policies**



- **The need for EISs to be clearly guided by risk** – The draft SEARs contain requirements that will not be applicable to all mines. The requirements in relation to any given factor should be guided by the level of risk involved, and be able to be readily made inapplicable if they are considered justifiably irrelevant. Their relevance / risk should be informed by a Preliminary Environmental Assessment.
- **The language within the document needs to provide increased clarity and a clear scope** – Use of words such as ‘all’, ‘fully’, ‘detailed’, ‘reasonable’ and ‘feasible’ require qualification or definition to clarify the requirements and the scope of an EIS.

The recommendations made in this submission will significantly assist in reaching the NSW Premier Mike Baird’s commitment to reducing assessment timeframes for major projects by 500 days. However, the ultimate test of the guidelines that collectively form the *Integrated Mining Policy* will be whether responsible agencies implement them in a manner consistent with their intent and that they work satisfactorily in practice. With that in mind, the Department of Planning and Environment (DPE) should give serious consideration to testing the draft guidelines by means of a carefully conducted trial assessment activity designed to identify potential problems with the implementation of the various guidelines.

Table of contents

Executive summary	1
Table of contents	3
Introduction	4
The draft SEARs requires significant streamlining and consolidation	5
JORC compliant statements are unsuitable for development applications	6
Guidance is required on the application of draft SEARs to smaller projects	8
References to 'coal' should be removed or contextualised	8
References to other government policies require clearer specification, including the avoidance of draft policies	8
The purpose of an EIS should be included	8
The environmental impact assessment section should clearly acknowledge that EISs should be guided by risk	9
The language within the document requires improvement to provide clarity and to limit the scope of an EIS	10
Other detailed observations	10
Overview	10
Appendix A – significant reviews necessary for specific sections	11
The rehabilitation section requires significant review	11
The water section requires significant review	11
The air quality section requires significant review	12
Appendix B – detailed observations	14

Introduction

The NSW Minerals Council (NSWMC) is the peak industry association representing the NSW minerals industry. Our membership includes around 100 members, ranging from junior exploration companies to international mining companies, as well as associated service providers. This submission has been prepared with the assistance of NSWMC's members.

The NSW Government's initiative to establish a clear policy framework for the regulation of mining through the development of the *Integrated Mining Policy* is commendable.

The draft SEARs have been prepared to provide clarity about whole-of-government requirements for proponents undertaking preparation of an EIS. The SEARs are a critical step in the assessment process, since they guide the scope and level of analysis a proponent undertakes in preparing their EIS. To be fully fit for purpose the SEARs must (i) provide sufficient guidance on the issues to be covered in the EIS at the required level of detail, (ii) link seamlessly with the *Mine Application Guideline* and other guidelines without duplicating their requirements and (iii) be contextualised to the particular circumstances of a project, utilising both standard and customised assessment requirements.

The mining sector currently faces extremely difficult operating conditions. Until recently taxes and regulations, rising labour costs, and a high Australian dollar were contributing to increased operating costs. In more recent times, increased global competition, and softer global demand for some of its key products have led to dramatically lower prices which have offset gains in reducing operating costs. For example, thermal coal prices have fallen by more than 50 per cent in the past five years. In addition, mining projects in Australia are among the most expensive in the world to develop and operate. The reality is that like any industry or business, there is a point at which costs become too high and begin stifling investment and growth. It is crucial that planning regulations do not impose additional and unnecessary obligations, delays, uncertainties and costs to the existing assessment process.

Project assessment timeframes have blown out from 500 days to more than 1000 days in the last six years. In November 2014, NSW Premier Mike Baird made a welcome commitment to reduce assessment timeframes for major projects by 500 days. Streamlining and consolidating the draft SEARs by implementing the recommendations in this submission have the potential to significantly assist in reaching this assessment target timeframe.



The draft SEARs requires significant streamlining and consolidation

The draft SEARs is too detailed, particularly the requirements relating to rehabilitation; air quality; waste management; chemicals, hazardous substances and dangerous goods; water; and management commitments. The level of detail varies widely, from high-level points through to highly specific detail, which in some cases is inconsistent with other documents.

Mining is a dynamic activity. As a result, many changes can occur over the life of a mine, which can, itself, extend over several decades. Consequently, the inclusion of excessive detail, rather than a level of information that gives confidence to regulators that potential issues/concerns have been identified and considered in the EIS, would by necessity require careful qualification/caveats. This, in turn, would potentially be seen by opponents and demonstrators that the mining industry is incompetent, much the same as the criticisms of the use of the words “where practicable” or similar in EISs.

An EIS is a fixed document over the life of a mine – it cannot be revised without formal modifications. It would be more appropriate to transfer several of the more detailed requirements nominated as SEARs to a relevant Environmental Management Plan, or Mine Operations Plan. The scope of an EIS should also not include Mining Lease and Environment Protection Licence information, which is separately determined through a post approval process. Some of the more detailed specifics that are necessary for an EIS (such as a description of the receiving environment) could form part of an updated version of the *EIS Guideline: Coal mines and associated infrastructure* (Department of Urban Affairs and Planning 2000). Whilst this document is not currently within the *Integrated Mining Policy* reform process, consideration should be given to including it. The document would need to be expanded to be relevant to metalliferous mines.

Ideally, an updated EIS Guideline would have been provided for review concurrently with the SEARs and *Mine Application Guideline* documents. Therefore, DPE should move immediately to include review of the EIS Guideline in the IMP process.

Several of the ‘Management commitments’ stated on page 2 of the draft SEARs are of a level of detail that is not appropriate for an EIS. These could instead be included in an Environmental Management Plan, its sub-plans and procedures and thus form part of a standard development consent template or standard condition. This includes monitoring of noise, air, water and waste, compliance assurance programs and reporting requirements and arrangements. DPE should also note that there are a range of other issues commonly monitored for mining operations – the current wording of the requirement could imply that monitoring of other issues may not be required or discussed in an EIS.

The air quality, water and rehabilitation sections of the draft SEARs are particularly detailed and require significant review. Detailed comments relating to these sections are provided in Appendix A.

Much greater rigour is required to streamline the requirements of the various regulatory instruments involved in the assessment process. As a fundamental principle, if a guideline exists on a particular topic (e.g. rehabilitation) it should as far as possible contain *all* relevant policy, guidance and direction on that subject. A proponent should not have to consult multiple guidelines on a given issue in order to piece together an overall sense of what they are required to do. Thus in the case

of the SEARs, where reliance is made on a guideline that is being referred to, that guideline should contain all the guidance relevant to the issue.

Furthermore, the suite of *Integrated Mining Policy* guidelines should, to the furthest extent practicable, represent the full set of applicable guidelines that a proponent must comply with. Proponents should not have to separately identify and comply with agency specific guidelines that often do not account for the context of state significant development.

DPE should also examine the relationship between the SEARs and the relevant bilateral arrangements that exist with the Federal Government, for example under the One Stop Shop arrangements. NSWMC is concerned, for example, that there is an inconsistency between what the State requires on water assessment and what the Commonwealth's Independent Expert Scientific Committee requires.

Recommendations

- The draft SEARs should be critically reviewed with the aim of streamlining the document by identifying the detailed aspects that are more appropriately contained within Environmental Management Plans, Mine Operations Plans or possibly an updated EIS Guideline.
- Update and expand (to include metalliferous mines) the *EIS Guideline: Coal mines and associated infrastructure*.
- Requirements on any given subject matter should be consolidated into a single document.
- A methodical review of the guidelines listed in the SEARs should be undertaken with a view to updating them and removing duplication with other policies and guidelines.

JORC compliant statements are unsuitable for development applications

NSWMC is concerned about the reference to the JORC Code in the draft SEARs, which requires “a resource/reserve statement that has been prepared in accordance with the most recent Joint Ore Reserve Committee Code.” The JORC Code is also referred to in DRE’s Policy on Conceptual Project Development Plans for mining projects.

The JORC Code was prepared to assist public reporting for the purpose of informing investors and their advisers of exploration results, mineral resources and ore reserves. It was not intended to inform development assessment processes. While the JORC Code provides a rigorous standardised framework for publishing information on publicly listed companies’ resources and reserves for potential investors, the level of information required for JORC compliant statements, as well as the requirement for a review by a ‘competent person’, make them expensive documents to produce that go well beyond what should be required for development assessments.

The level of detail required for a JORC statement is not always available, even during the preparation of an EIS. JORC compliant statements are generally prepared for entire title areas, as opposed to specific mining proposals that are the subject of a development application.



While NSWMC understands that the Government is seeking to use an existing standardised framework for the provision of resource information to achieve consistency and confidence in the information that is provided, the issues with the JORC Code and the differences between public and private companies need to be explored further.

NSWMC believes there is a need for the Government to clearly articulate the purpose for which resource information is required at each stage of the assessment process, and then identify the specific information that is required from proponents to satisfy those purposes. The information required could be a subset of information required under the JORC Code, but it should not be a fully compliant JORC Resource and Reserve Statement for the development application in question. Resource information requirements should be aligned across different aspects of the assessment process – e.g. for the Economic Assessment and the assessment of resource significance.

JORC compliant statements include commercial in confidence information that private companies will be unwilling to provide in EIS documentation. An option is to provide the required (subset) information to DRE, with a summary of relevant information suitable for a public audience summarised as part of the Project Description.

For those publicly listed companies that already produce JORC statements, any resource information required should be able to be drawn from existing JORC statements that are already in the public domain.

Where a company does not already publish JORC statements, the proponent would need to consider providing best available estimates. However, they will be unwilling to provide commercially sensitive information other than what is already required under the Mining Act given the ease with which it can be accessed under the GIPA Act or Parliamentary inquiries. These issues will need to be discussed further with the industry.

Recommendation

- In lieu of requesting a JORC compliant statement, the Government needs to clearly articulate the purpose for which resource or reserve information is required at each stage of the development assessment process, then specify the information required from proponents to meet these purposes.

Guidance is required on the application of draft SEARs to smaller projects

The draft SEARs are designed to apply to a large greenfield mining project scenario. However, the assessment process must also be able to accommodate small to mid-sized projects, extensions and modifications of varying complexity. A one-size-fits all approach will be unworkable. It is critical that the SEARs are flexible and scalable to accommodate the level of detail required for any particular project and its unique circumstances.

Recommendation

- The SEARs should be sufficiently flexible and scalable to accommodate both greenfield and brownfield projects and modifications of varying size and complexity.

References to 'coal' should be removed or contextualised

The draft SEARs is intended to be a document used to inform both coal and metalliferous SSD applications. However the content of the document tends to be coal-centric, often using coal terminology as generics. This includes the use of the word 'coal' in the filename. For example, references to a 'coal washery' (waste section) and 'Coal Mine Particulate Matter Control Best Practice' (air quality section) should be either removed or expanded/clarified to consider the requirements for metalliferous mines.

Recommendation

- Ensure that any Standard SEARs requirements are applicable to both coal and metalliferous SSD projects.

References to other government policies require clearer specification, including the avoidance of draft policies

There are number of policies that are undated and / or in draft identified in the draft SEARs. All guidelines need to be dated and draft guidelines should not be referenced in the draft SEARs. These guidelines are subject to change and do not provide certainty with regards to specific assessment requirements. This includes reference to the draft Swamp Offsets Policy.

Recommendations

- Remove or clarify reference to draft government policies, which should not be taken into consideration until finalised.
- References to guidelines or policies should include a date, to identify the specific document that is being referred to.

The purpose of an EIS should be included

While the SEARs outline what an EIS should contain, it doesn't state what an EIS should ultimately achieve.

A statement should be added in the introduction that describes the purpose of an EIS, including:

- Providing to regulators, the community and other stakeholders a description of the project, its impacts, benefits and the management measures that will be implemented to avoid, minimise or mitigate significant impacts.
- Allow the determining authority to:
 - Consider whether to approve the project based on the balance of impacts and benefits.
 - Determine if the proposed management measures are acceptable.
 - Inform the preparation of approval conditions.
- Documenting the proponent's project commitments.

Recommendation

- Include a description of the purpose of an EIS in the introductory section of the draft SEARs.

The environmental impact assessment section should clearly acknowledge that EISs should be guided by risk

The contents of an environmental impact assessment should be dictated by relevance. An up-front statement is required at the start of the environmental impact assessment section of the draft SEARs that the nature of the information provided is to be appropriate to the factor/issue and the risk that factor poses.

In the absence of close scrutiny and editing, there will inevitably be some sections of an EIS as identified in the SEARs that are not relevant to a particular project. In these cases, a statement to the effect that a particular aspect is not relevant or material and an explanation as to why should be all that is required. For example, flood modelling should not be required where there is no potential for flood-related impacts. Keeping these types of requirements within the SEARs without qualification can lead to significant yet unwarranted cost and time implications.

Alternatively, the items stated in the draft SEARs should be limited to items that are certain to apply to all SSD mining projects. Additional SEARs requirements could then be added based on the contents of a Preliminary Environmental Assessment (PEA), which is guided by the Mine Application Guideline (MAG).

Recommendation

- Ensure that only items of relevance be required to be assessed in the Environmental Impact Assessment section.

The language within the document requires improvement to provide clarity and to limit the scope of an EIS

There are a number of wording changes within the document that could be made to improve the readability and clarity of the document. These comments and suggestions will be provided to DPE separately. Nevertheless some specific wording issues include:

- Throughout the draft SEARs the use of the word 'all' is very prevalent. The use of 'all' should be reviewed and qualified throughout the draft SEARs as there is a risk that a definitive term like "all" could be easy to challenge, as it would be relatively easy to show you haven't considered "all". The same argument can be applied to the use of the words "full" and "fully".
- Terms such as 'reasonable', 'feasible' (and 'reasonable and feasible') and 'relevant' appear throughout the document and should be defined or at least clarified.
- The term 'locality' should be defined, to limit the extent of certain assessments.
- The use of the words "detail" or "provide detailed" is unwarranted at the EIS stage in some instances as it is either not available or would not reasonably impact on the ability to assess the application. For example "*a detailed description of progressive rehabilitation timeframes and commitments for each domain*" is unwarranted for an EIS.
- The draft SEARs requires assessment of whether proposed mitigation measures are consistent with 'industry best practice'. There is no prescribed source of information that defines 'industry best practice' and therefore is difficult for proponents to determine what is acceptable. DPE should provide guidance on this, such as by providing a publication of 'industry best practice' as it applies to environmental mitigation measures.

Recommendation

- Review the language within the Standard SEARs to improve clarity and limit the intended scope of an EIS.

Other detailed observations

NSWMC has provides detailed observations and suggestions in Appendix B with reference to the relevant sections.

Overview

The draft SEARs document is a positive step toward a more streamlined assessment process for state significant development mining projects. However, to fully achieve their potential, a number of refinements to the document are required. Fundamentally the assessment process needs to be:

- Straightforward.
- Clear.
- Flexible enough to cater for different scales and unique circumstances of each project.
- Efficient both in time and resources.
- Aligned with accepted project development phases.

The *Integrated Mining Policy* reforms are a step toward a fair and efficient planning system that will return investment confidence to the mining sector in NSW.



Appendix A – significant reviews necessary for specific sections

The rehabilitation section requires significant review

The following rehabilitation issues require clarification:

- The level of detail contained within the rehabilitation section is excessive and not appropriate for an EIS. Rehabilitation outcomes and planning are influenced by a range of factors that include production rates, swell, changes to rehabilitation techniques, changes to technology, community needs and decisions not to mine certain areas that have already been approved. In its current form, the description of rehabilitation outcomes would need to be highly qualified. A 'conceptual' rehabilitation plan and final landform is appropriate for an EIS, with detailed requirements better placed within a Mine Operations Plan (MOP) that can be adapted to site related changes and decisions.
- The rehabilitation methodology refers to the requirement that *'the final rehabilitation schedule should be mapped against key production milestones (ie: ROM tonnes) of the mine layout sequence before being translated into indicative timeframes throughout the mine life'*. Conceptual mine layouts are typically prepared for key indicative years of a proposed project to enable the assessment of likely worst case impacts, rather than having an indicative mine layout for all years of the project. The requirement for the rehabilitation schedule to be mapped against ROM tonnes is very onerous for proponents given the level of detail typically available at the EIS stage. Given that mining operations are dynamic and can change throughout the operational phase of a project, this requirement is better left in the mine operations planning process that is regularly updated as mining progresses.
- The requirements associated with a proposed final void, specifically with regards to undertaking a constraints and opportunities analysis, including backfilling does not currently reference the economic, social and environmental impact associated with backfilling. The draft SEARS require a proponent *to justify that the proposed design is the most feasible and environmentally sustainable option to minimise potential risks to public safety*. It is recommended that the definition of feasible be expanded to specifically acknowledge economic, social and environmental considerations.
- Details relating to 'SMART' rehabilitation completion criteria are better placed in an Environmental Management Plan.

The water section requires significant review

The following water issues require clarification:

- The draft SEARS require the proponent to demonstrate that *all practical options to avoid discharge have been implemented*. The words 'all' should be replaced with "reasonable and feasible".
- Discharges are required to demonstrate that ambient targets can be met, however in some cases ambient targets are not relevant and site-specific targets are more appropriate. Further, under circumstances of significant wet weather events, ambient targets in the receiving waters may also be naturally exceeded, making this requirement unachievable.
- Further clarity is required regarding the objective of "no new salt" and what this means in a policy context.



- The draft SEARs require a proponent to demonstrate how the proposal will '*protect water quality objectives in receiving waters, where they are being achieved*' and '*contribute towards achievement of the Water Quality Objectives, where they are not being achieved*'. Residual water quality impacts may arise for a project that don't *protect or contribute towards water quality objectives* but may still be considered on balance with environment, economic and social considerations as acceptable. The proponent's EIS should identify the potential impacts and proposed management measures and then it is DPE's responsibility to determine if, on balance, these impacts are acceptable.
- There is a requirement for an assessment of the probable maximum flood (PMF) event for each EIS. The need to assess the PMF is not relevant for all mining proposals. PMF is used for emergency response planning purposes to address the safety of people. A 1 per cent annual exceedence probability (AEP) flood event is generally used to limit flood exposure and damage to standard residential development. This requirement should be amended to only require an assessment of the probable maximum flood when it is relevant.
- There are a substantial number of guidelines with regards to water referenced in the draft SEARs. These guidelines should be reviewed and rationalised to allow a more streamlined approach.
- The term 'water-dependent assets' is open to interpretation. There should be some reference to assets as identified in the Bioregional Assessments (for coal mines, where available).

The air quality section requires significant review

The following air quality issues require clarification:

- A project may not be able to comply with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Clean Air) Regulation 2010*. It may result in a residual impact that may still be considered on balance with environment, economic and social considerations as acceptable. The proponent's EIS should identify the potential impacts and proposed management measures and then it is DPE's responsibility to determine if, on balance, these impacts are acceptable.
- The section on assessing the risk associated with potential discharges of fugitive and point source emissions for all stages of the proposal should be removed. Existing air quality criteria already considers risk. Undertaking risk assessments for all projects would be expensive, lead to varying outcomes and be unproductive, overall.
- The word 'all' is used in several places throughout the requirements. Whilst there is some qualification with the use of 'all relevant', there are instances where further qualification is warranted. For example there are minor sources of air emissions in any mining operation that are not significant enough to need to be considered in modelling and assessment and the wording of the requirement should reflect this.
- The emissions inventory should represent the project as proposed. If the project includes controls then the inventory should reflect a project with those controls. A base case inventory without control is not always relevant and would likely just create concern for the community. Standard dust management measures such as watering haul roads (for example) are proven to be effective in reducing dust emissions. Providing an inventory with no controls would not be helpful to the assessment process or in any way representative of the emissions from the project.



- The draft SEARs requires the cumulative impacts to account for proposed developments. The requirement to account for proposed developments that do not have planning approval is unwarranted and should not be included as a requirement. Pending the stage in the approvals process of a proposed development, information may not be publicly available for inclusion in a cumulative assessment. Additionally, the inclusion of a proposed development may artificially increase the background concentration as its fundamental assumption is that all proposed projects will be approved and if approved will go ahead. Only projects with planning approval or in the final stages of the approvals process should be considered within a cumulative assessment.
- Linking nominated controls to calculated emission reductions adopted in an emissions inventory is not realistic for a greenfield project, as nothing can be used as a baseline from which to determine 'reductions'.
- The reference to 'consider any relevant government policies' includes a reference to the National Greenhouse Accounts Factors. It is not clear why this is listed if no greenhouse assessment is required as a standard SEARs requirement.
- Further clarification needs to be provided regarding the requirement for *isopleth plots showing the geographic extent of maximum pollutant concentrations (incremental and cumulative)*. Typical isopleths are created that show the relevant criteria for daily and annual averages - this allows for the presentation to the reader of whether a receiver exceeds the criteria or not. The location of a maximum pollutant concentration is unclear – it could be at the source or the nearest mine owned residence or nearest private owned residence. NSWMC recommends that the requirement references isopleths for the relevant assessment criteria, rather than the maximum pollutant concentration.
- Further clarity is required regarding the intent of the requirement for *time series and frequency distribution plots of pollutant concentrations at each private receptor location at which an exceedance is predicted to occur*.
- The pollutants to be assessed should be identified as part of an assessment, not prescribed. For example, dispersion modelling of NO₂ may not be relevant for all mining operations.
- It is unclear what the purpose is of undertaking an analysis of the *most impacted off site sensitive receptor*, if no exceedances are predicted.
- The requirement for an Air Quality Management Plan to be submitted as part of the EIS would add bulk to the EIS (already a common issue raised by the community) without providing for improved assessment outcomes. The requirement for a management plan can be readily addressed by consent conditions.
- It is not clear why the Coal Mine Particulate Matter Control Best Practice - Site-specific determination guideline (OEH November 2011) is being referred to. The Katestone / OEH (2011) *NSW Coal Mining Benchmarking Study: International Best Practice Measures to Prevent and/or Minimise Emissions of Particulate Matter from Coal Mining* may be more relevant (although it applies only to coal mining).
- The discussion of *all relevant proposed emission control measures* is more appropriate for an environmental management plan, than an EIS.

Appendix B – detailed observations

Table 1: Detailed comments and suggestions

No.	Section	Comment
1	General requirements – page 2	The draft SEARs refer to ' <i>taking consideration of any relevant laws, environmental planning instruments, guidelines, policies, plans and industry codes of practice</i> '. This statement is extremely broad and should refer to the 'latest, publicly available and final versions of relevant laws ...', to avoid internal government drafts or drafts for consultation, or past redundant guidelines being caught by this requirement.
2	Strategic context – target resource – page 3	<p>The SEARs specify that the proponent needs to demonstrate that sufficient resources exist at a 'Indicated' level of confidence (or higher) to cover the majority of the initial mine production schedule and that any contribution from inferred resources requires justification. Market segments for product tonnes is also requested.</p> <p>This would place substantial additional exploration requirements beyond that which some proponents complete as part of corporate requirements prior to a development application being issued. Commercial sensitivities can also exist.</p>
3	Mapping requirements – page 3	The reference to 'architectural drawings' requires clarification. For most mining projects the concept level detail of built structures does not require full architectural drawings and indeed this detail is not warranted when, for example, a workshop is being built in the middle of a major mining operational area.
4	Mapping requirements – page 3	The requirement for mapping to be provided in an electronic format should include a provision that allows a proponent to limit its purpose to being used by DPE solely for their assessment of a specific project. NSWMC supports making electronic maps publicly available, as it will allow other proponents to more readily assess cumulative impacts. However an individual proponent's desire to keep electronic maps out of the public domain takes precedence over this benefit.
5	Target resource – pages 3 and 4	This section requires a production schedule for each year of the mine. Mining operations are dynamic and subject to changes due to geological conditions, market conditions and other drivers and it is not possible to provide an accurate schedule at this stage of a project. For this reason, an indicative schedule showing maximum

		production levels and identifying peak activity periods that need to be considered in the impact assessment process is common practice in EISs. Providing a detailed yearly schedule is more likely to mislead the community than provide improved clarity.
6	Strategic context - Other approval requirements - page 4	The Draft SEARs requires the proponent to demonstrate compliance with the Commonwealth <i>Native Title Act 1993</i> (NTA) and the right to negotiate process. However, at the stage of lodging an EIS, it is highly unlikely that a proponent will have commenced, let alone completed any right to negotiate process. The requirement should be limited to (at most) demonstrating how it will comply with the NTA prior to being granted a mining lease. DRE's new protocol for native title extinguishment reports should be referred to in the SEARs as the relevant guidance.
7	Land and soils – page 7	The document refers to the NSW Government BSAL verification protocol. In practice this document has a number of significant issues that need to be reviewed by Government. The soils assessment should instead be conducted in accordance with the ' <i>Land and soil capability assessment scheme: second approximation – A general rural land evaluation system for NSW</i> ' (OEH, 2012) (LSC Guideline).
8	Land and soils – page 7	The document requires an Agricultural Impact Statement (AIS). However the footnote on page 1 implies that an AIS is only required when the Gateway process is not applicable.
9	Biodiversity – page 10	Any agreement to not comply with the FBA should be not only with OEH, but also in conjunction with DPE – as it is the assessment authority.
10	Heritage – page 11	This section lacks clarity around the consultation process and requirements as consultation may be necessary as part of the first dot point in order to identify Aboriginal values. The 'historic' (European) and Aboriginal heritage requirements should be specified separately.
11	Noise and Vibration – page 14	Private (non-network) rail lines are not assessed under the <i>Rail Infrastructure Noise Guideline</i> , they are assessed under the NSW <i>Industrial Noise Policy</i> . The need for any assessment on the public rail network should consider the existing network capacity, and the existing licenced noise impacts as stated in an Environmental Protection Licence (EPL). This issue warrants further policy development. Additionally, rail is assessed in an entirely different planning

		approval process.
12	Noise and Vibration – page 14	We note that the 2 nd last dot point relating to assessment of vibration impacts (i.e. vibration that is not related to blasting) has not been a standard assessment requirement over the past few years. An assessment can be completed following the specified guideline, however, typically these occasional operationally related issues only come to light following commencement of operations as the circumstances that result in issues are generally uncertain (typically a combination of detailed design factors) and unlikely to be predicted. As such, the value of a detailed assessment at this stage of the project is questionable.
13	Waste – page 15	<p>The requirements for waste combine mining activity wastes (e.g. overburden, tailings, reject) with other general wastes and apply the same level of assessment and management detail to both types of wastes. This is considered inappropriate as for most mining operations general wastes (paper, scrap metal, putrescible waste etc.) are well covered by legislation and standard management practice and do not require this level of assessment in an EIS, and are not critical to the determination of an SSD project.</p> <p>Regardless of the need to provide different requirements for these different types of waste, the requirements listed are considered to be too prescriptive and onerous to apply to all projects at EIS stage. Many of the requirements relate more to ongoing management and are not required to assess the waste related impacts of a project at EIS stage. Some other requirements are relevant to particular types of mining operations (e.g. characterisation of tailings requiring emplacement from metalliferous mines), which is much too detailed for most projects.</p> <p>The requirements for waste should be significantly reduced as most of the items are best considered in an Environmental Management Plan. Where particular projects require more detail this can be added.</p>
14	Economic appraisal – page 17	There is a requirement for a Capital Investment Value to be calculated and included in the EIS. This is often commercially sensitive information, therefore, rather than being included in the EIS, this information can be provided as commercial in confidence to DPE when submitting a project application. Only the total figure could be provided in the EIS.
15	Chemicals, hazardous substances and dangerous goods – page 18	This entire section is inappropriate to assess over a 20+ year period. The details in this section are best detailed in an Environmental Management Plan.
16	Subsidence – page 18	<p>The purpose of a sensitivity analysis of subsidence effects is not clear.</p> <p>Subsidence predictions are routinely undertaken with high degrees</p>

		of conservatism in the various inputs, commonly with outcomes expressed in terms of a 95% Upper Confidence Limit of the Mean which in turn represents the Credible Worst Case values. Depending on the purpose for this request, the requirement for sensitivity analyses will potentially result in the introduction of another layer of conservatism that will further restrict viability. Perhaps replace with "including a thorough assessment of input variables and potential variations leading to a high confidence assessment".
17	Transport – page 19	Assessing road impacts with regard to council's requirements is problematic as these could be aspirational and exceed normal standards, or otherwise be used to improve a road at no cost to the council.
18	Other – document layout	The EIS document layout should be flexible. As long as it covers the identified material it should be accepted.