



Document reviewed	
Title of the draft being reviewed:	Standard and guidelines for environmental impact assessments
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General Comments	
<p>Australia confirms its position, as previously stated, that these Guidelines can only be approved as part of a package, together with the Draft Exploitation Regulations (Regulations) and other Standards and Guidelines. We note also that to the extent these Guidelines refer to other Guidelines which are yet to be developed, it is appropriate to have a further opportunity to comment on this Guideline in the light of the other Guidelines once they have been prepared.</p>	
<p>Until the Regulations are complete, we provide in-principle support of the nature of this Standard and these Guidelines.</p>	
<p>Australia reiterates comments made to the draft Regulations and Annex VII and considers that any proposed amendments to the Regulations should also be reflected in the Guidelines.</p>	
<p>These Guidelines should include a statement to the effect that where the Guidelines seemingly conflict with the Regulations, including its annexes, or any Standards, the Regulations or Standards will prevail.</p>	
<p>In line with Australia's comments on the Regulations, Australia considers the exploitation regulations and/or legally binding standards should, at a minimum:</p> <ul style="list-style-type: none"> a) clearly identify the stages of EIA in the regulations, particularly the screening stage, the assessment (or scoping) stage and the approval stage; b) articulate the roles of the applicant or Contractor, the Authority and the Sponsoring State in the EIA preparation, assessment and approvals process; c) provide for public consultation on draft EIAs as part of the approval process and for EIAs to be made publicly available once approved (rather than just rely on the public consultation of the EIS in draft regulation 11); d) require consultation with relevant coastal states in the EIA process; e) include an explicit provision enabling the LTC to require that certain conditions relating to mitigation of environmental impacts are included in EMMPs; and f) specify the minimum requirements for baseline data, including collecting data over multiple years to capture temporal and seasonal variation. 	

As such, Australia disagrees with the approach taken here to not include any consultation requirements in the Standards. Further, Australia considers that the current Standards and Guidelines articulate considerations for the applicant or Contractor, but do not specify the role of the Sponsoring State, or the Authority in any detail. Australia recommends including this in this Standard, or in future Standards.

Additionally, while Australia notes that the Commission has provided draft Guidelines on the establishment of baseline environmental data, Australia considers that such minimum baseline data requirements should be contained within a Standard rather than a Guideline, given the importance of the EIA process progressing by reference to consistent and detailed data.

Terms defined in the draft Exploitation Regulations should be used and capitalized consistently in the draft Standards and Guidelines.

Support the document's focus on strong environmental regulation.

Specific Comments

Page	Line	Comment
1	25	Please insert "and Annex IV" after "47".
3	87-94	<p>Australia has concerns that this paragraph is not drafted in a clear and precise manner, as required for a Standard. We suggest the following amendments:</p> <p>Screening is a step used to determine which projects should be subject to EIA and to exclude those unlikely to have harmful environmental effects. For an application for exploitation, this step is unlikely to be needed<u>not necessary. This is because, as</u> all applicants are required to undertake an EIA <u>and all activities are subject to the EIA</u> (hence the step is coloured light blue). However, there could be situations such as when an exploitation contract has been approved and the project subsequently has undergone a change that could result in different environmental effects that may be of some significance. The screening process should determine whether or not a new EIS (or another mechanism such as an addendum to the EIS) is needed.</p> <p>We have deleted the remainder of the paragraph, as we note that the Regulations, Standards and Guidelines are unclear as to whether a new EIA/ EIS is required following a Material Change to the Plan of Work.</p> <p>In accordance with regulation 57, where a Material Change is proposed to a Plan of Work, the proposed change may be subject to approval from Council and /or the Commissions (depending on whether the Material Change relates to the Environmental Management and Monitoring Plan (EMMP) or Closure Plan). While the EMMP must be based on the EIA and EIS, it is not clear whether the underlying EIA and EIS must be updated when a Material Change is proposed to the EMMP. Australia recommends that this is clarified in the Regulations or Standards, as deemed appropriate.</p>

		If there is no clarification, Australia notes that if an applicant screens activities that will form part of a revised EIA or EIS, and the updated EIA/ EIS fails to satisfy the Council or Commission of the requirements in the Regulations due to the omissions, then it is open to the Council or Commission to seek further information from the applicant.
4	131	Please provide a definition of an “enhanced ERA”
4	174-175	Noting the objective of the Standard is to link environmental considerations to ISA decision-making, Australia recommends inclusion of a requirement that the Authority take account of the EIA and EIS in considering and approving Plans of Work (as provided by Regulations 15 and 16).
6	224-226	Please list the applicable sections of the Regulations which establish the EIA requirements
6	228-232	Australia notes that the Guideline also relates to requirements for the EIS, which should be reflected in the “Purpose of this Guideline” “The purpose of this Guideline is to expand the description of the process to be followed in undertaking an EIA for Exploitation of mineral resources in the Area and to provide guidance to assist an applicant or Contractor in implementing the required components and stages of an EIA as set out in the Exploitation Regulations and EIA Standard, including guidance on the EIS process which documents and reports on the results of the EIA- ”
6	261	“incorporated into the management and mitigation methodologies of the EIA process, and preparation of an/ EIS ”
8	307-308	Australia notes the reference that “effective and comprehensive stakeholder engagement is needed”, but there is no corresponding requirement on stakeholder engagement in the Standard. Consistent with Australia’s previous comments, the Standards and / or Regulations should provide clear requirements for consultation with stakeholders and coastal States.
9	361-362	Please amend as indicated: “Location of the project area as depicted on including location maps (to scale) and by coordinates, [...]”
9	362	Seek clarification on the term ‘mining area or areas’, including what is expected of the Contractor when undertaking a mining activity.
10	395-396	Please clarify the role of a “preliminary ERA,” if they differ from other ERA’s specified in the Standards and Guidelines, and if so if there are expected timeframes and processes for undertaking them.
18	598-591	Consider moving to the Standards to ensure that applicants and Contractors must update the ERA prior to submitting the EIS, ensuring that environmental effects under consideration by the Authority are based on the most up-to-date information.
29	988	Seek clarification on the term ‘project-specific’, including what is expected of the Contractor when undertaking a mining activity.
29	988	Seek clarification on the term ‘area-specific’, including what is expected of the Contractor when undertaking a mining activity.

29	993	Seek clarification on the term 'mining area', including what is expected of the Contractor when undertaking a mining activity.
29	997	Please clarify or define "EIA threshold". Does it differ to a significance threshold, which is the terminology used elsewhere in the Guidelines?
29	999	Seek clarification on the term 'project-specific', including what is expected of the Contractor when undertaking a mining activity.
30	1038	<p>Australia notes that using the mitigation hierarchy when developing mitigation strategies is already included under the Standards and is therefore mandatory rather than optional.</p> <p>Consider replacing "Contractors should consider the mitigation hierarchy (Figure 5) when developing their mitigation and management strategies in the EIS and EMMP" with "When applying the mitigation hierarchy to the development and management strategies in the EIS and EMMP, applicants and Contractors should note that the hierarchy concept is based on progressively assessing mitigation options starting with 'avoid'."</p> <p>Alternatively, replace with "The Standards require applicants or contractors to consider the mitigation hierarchy when developing their mitigation and management strategies in the EIS and EMMP."</p>
33	1115-1120	Query whether this should be included in the Standards rather than Guidelines. If recording the EIA process is not mandatory, there may be not be a sufficient basis on which to audit the EIA process, which is required under the Standards.