

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

- 1. Name of Working Group:** IWG Environment
- 2. Name(s) of Delegation(s) making the proposal:** Australia
- 3. Please indicate the relevant provision to which the textual proposal refers.**

DR 46bis(2)(b)- proposed amendments are in green text
- 4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.**

Regulation 46bis

Environmental impact assessment

2. The environmental impact assessment process shall include the following steps:

(a) A scoping ~~process~~ Stage and scoping report in accordance with Regulation 46ter and annex IVbis to identify and ~~prioritize risk~~ assess the main-anticipated activities and potential impacts associated with the proposed mining operation which are relevant to the assessment, and identify reasonable alternatives to the proposed activity, including a no-action alternative, to Mitigate Environmental Effects as well as to identify and engage with Stakeholders, in order to focus the Environmental Impact Statement on the key environmental issues. The outcome will result in a binding document for all the parties in the mining operation. It should include assessment of the available baseline data and their compliance with the relevant Standard, an environmental risk assessment, and the results of the consultation process with Stakeholders in line with the relevant Standards and Guidelines and set out the terms of reference for the environmental impact assessment.

(b) An Environmental impact assessment ~~and evaluation process~~ to describe the Marine Environment including Underwater Cultural Heritage and predict the nature and extent of the Environmental Effects of the mining operation, in accordance with the applicable Standard, including cumulative and synergistic impacts and residual and synergistic effects also considering other existing and foreseen mining operations, using Best Available Scientific Evidence, Best Archaeological Practices, Best Environmental Practices, Best Available

Techniques, and Good Industry Practice and taking into account factors, including but not limited to, the following: where applicable:

5. Please indicate the rationale for the proposal. [150-word limit]

• Australia supports the inclusion of protection of Underwater Cultural Heritage, including intangible cultural heritage, in the Regulations. ~~Australia supports provisions for protection of 'Underwater Cultural Heritage', including intangible cultural heritage, in the Regulations.~~ However, we consider the protection of underwater cultural heritage should be the subject of separate provisions, rather than being considered as part of the 'marine environment' for the purposes of the Regulations,~~not be included in the definition of the marine environment but dealt with in separate provisions.~~ We are participating in the intersessional work being led by the Federated States of Micronesia to resolve issues around how best to include cultural heritage protections in the Regulations.

• Further, Australia considers that 'taking into account, where applicable' should be replaced with 'taking into account factors, including but not limited to, the following' to ensure that the scope of ~~future~~ considerations are not limited in the future.

Commented [RF1]: I've amended this paragraph to reference the intersessional work being led by FSM to come up with provisions that better deal with underwater cultural heritage and intangible cultural heritage as separate concepts, rather than rolling them into the provisions on the marine environment in the Regulations. This work should help to resolve some of the 'muddying' introduced by adding references to Underwater Cultural Heritage into the marine environment protection provisions. I also wanted avoid any misconception that by suggesting deleting this paragraph in DR 44 that we did not support including heritage protections in the Regulations.

And, sorry, but I forgot to put 'track changes' on before I amended it.

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DR 46bis(5) - proposed amendments are in **green** text

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Regulation 46bis

Environmental impact assessment

5. A Contractor shall review periodically, as indicated in the Environmental Management and Monitoring Plan, **environmental** impact assessments previously performed, including ~~for~~ cumulative and synergistic impacts of activities covered by the assessment, ~~periodically as indicated in the monitoring plan~~ and revise them thereafter covered by the assessment, periodically as indicated in the monitoring plan and revise them thereafter whenever a change in the mining operation has occurred, ~~or~~ there is relevant new information or when the review indicates that such changes warrant a revision.

- 5. Please indicate the rationale for the proposal. [150-word limit]**

Australia suggests that ‘impact assessments’ should be amended to refer to ‘environmental impact assessments’, to ensure consistency of terminology throughout this draft regulation.

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- 3. Please indicate the relevant provision to which the textual proposal refers.**

DR 46bis(9) - proposed amendments are in **green** text

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Regulation 46bis

Environmental impact assessment

9. The Environmental Impact Statement shall be in the form prescribed by the Authority in annex IV to these regulations and shall:

(a) Demonstrate that the proposed mining operation **takes into account the relevant Guidelines and** is in accordance with all relevant environmental Standards and with the requirements of the relevant Regional Environmental Management Plan.

(b) ~~Be Based on Describe~~ the results of the environmental impact assessment;

(c) Identify **substantive** comments received through public consultation on the environmental impact assessment and how they have been addressed;

- 5. Please indicate the rationale for the proposal. [150-word limit]**

Australian suggests that paragraph 9(a) refer to relevant Guidelines as well as standards.