

## SCHEDULE 1.2: MINING INDUSTRY WORK APPROVALS

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## PRELIMINARY

### SCOPE OF ARRANGEMENTS

This Schedule applies to mining and mining and exploration in accordance with a **Mining Licence** or a **Prospecting Licence** granted under part 2 of the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA). The Schedule outlines the processes by which the Department of Jobs, Precincts and Regions (DJPR) and the Department of Environment, Land, Water and Planning (DELWP) will work together to meet their respective obligations and responsibilities under the MRSDA in relation to mining and mining and exploration under those licences.

This Schedule recognises that DJPR is the regulator under the MRSDA and that DELWP will generally be engaged in its capacities as a Crown land manager and/or referral authority.

**Note 1:** This Schedule does not apply to exploration activities under a Mining Licence or Prospecting Licence in those cases where only exploration is proposed. Such cases are considered under *Schedule 1.1. Mineral exploration work approvals*.

**Note 2:** This Schedule does not apply to mining in areas, including wilderness, national, state and other parks, managed under the *National Parks Act 1975*.

**Note 3:** This Schedule does not apply to mining in mines that have been declared under Section 7C of the MRSDA but the principles outlined in this Schedule may be applied.

### HOW TO READ THIS SCHEDULE

Generally, DJPR or, in some cases, a proponent, will make a referral to DELWP, typically seeking technical information or advice, comments, recommendations, conditions and consents in relation to mining proposals/works, mining and prospecting licence applications, work plans and work plan variations. These referrals can be either a non-statutory referral where DJPR or a proponent is seeking agency comment, policy or technical advice, or a statutory referral (required under the MRSDA).

The Schedule consists of a number of parts:

- **Preliminary.** This part outlines the scope of the Schedule, establishes definitions and sets out the types or categories of referrals (Table 1 and Figure 1).
- **Part A. General.** This part includes important information relevant to referrals.
- **Part B. Non-statutory referrals and consultation.** This part relates to DJPR or in some cases, a proponent, seeking informal policy or technical advice or other assistance from DELWP.
- **Part C. Statutory referrals and consents.** This part relates to DJPR seeking formal advice, recommendations or comments from DELWP or the proponent seeking the consent of the Crown land Minister in relation to works on restricted Crown land, in accordance with the MRSDA.

The Schedule may be read or navigated by undertaking the following steps:

<b>Step 1</b>	Refer to: <ul style="list-style-type: none"><li>• Table 1 to ascertain or confirm the type or category of referral and identify the relevant section of the Schedule and</li><li>• Figure 1 to understand where the referral fits within the overall mining approvals process.</li></ul>
<b>Step 2</b>	Go to relevant section (Part B. or Part C.) of the Schedule and follow the process as outlined.
<b>Step 3</b>	As indicated in the relevant section of the Schedule, refer to Part A., Figure 1 and other Schedules.

## DEFINITIONS

1. **‘Consent’** means consent of the Crown land Minister (or delegate) under section 44(1) of the MRSDA for a licensee to undertake work under the licence on restricted Crown land.
2. **‘Crown land’** has the same meaning as defined in the MRSDA.
3. **‘Crown land manager’** means DELWP, Parks Victoria or other manager of Crown land (e.g. committee of management under the *Crown Land (Reserves) Act 1978*).
4. **‘Crown land Minister’** has the same meaning as defined in the MRSDA.
5. **‘DELWP Action Officer’** means a DELWP Officer engaged by the DELWP Case Manager to provide expert technical, policy, regulatory or operational inputs.
6. **‘DELWP Case Manager’** means the DELWP Officer responsible for coordinating DELWP responses to referrals.
7. **DJPR Assessments Officer’** means the DJPR Assessments Officer responsible for work plan assessment.
8. **‘DJPR Compliance Officer’** means the DJPR Compliance Officer responsible for regulatory compliance and enforcement.
9. **‘DJPR Licensing Officer’** means the DJPR Licensing Officer responsible for mining licence assessment.
10. **‘Head document’** means the head or relationship document, a component of the *Memorandum of Understanding for Earth Resource Industries Approvals and other Obligations and Responsibilities*, to which this Schedule is appended.
11. **‘Heritage’** means places or objects included in the Victorian Heritage Register, all historical archaeological sites including those in the Victoria Heritage Inventory and underwater cultural heritage.
12. **‘Land status’** means whether the land is in private ownership or is Crown land; and further in the case of Crown land, the category or classification (actual or proposed) of the Crown land on which the mining is proposed.
13. **‘Licence’** means a Mining Licence or Prospecting Licence under the MRSDA.
14. **‘Licence application’** means an application for a Mining Licence or Prospecting Licence.
15. **‘Licensee’** means the holder of a Mining Licence or a Prospecting Licence under the MRSDA.
16. **‘Mining’** has the same meaning as defined in the MRSDA.
17. **‘Minister’** means the Minister responsible for the MRSDA.
18. **‘Native vegetation’** means plants indigenous to Victoria, including trees, shrubs, herbs and grasses, or otherwise defined in the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) or its successor.
19. **‘Non-statutory referral’** means a request to DELWP because DJPR wishes to obtain technical or other assistance from DELWP relevant to the administration of earth resources legislation and which is not a statutory referral.
20. **‘Proponent’** means the holder of a Mining Licence or Prospecting Licence (licensee) or an applicant for a Mining Licence or Prospecting Licence or consent to works on restricted Crown land.

21. **‘Referral authority’** has the same meaning as defined in section 77TA of the MRSDA.
22. **‘Rehabilitation plan’** has the same meaning as defined in the MRSDA (a rehabilitation plan is a required component of a work plan or work plan variation).
23. **‘Relevant DJPR guidelines’** means guidelines prepared by DJPR and published on the DJPR Earth Resources website.
24. **‘Restricted Crown land’** has the same meaning as defined in the MRSDA.
25. **‘Significant flora or fauna or their habitat’** means a species, community, Ecological Vegetation Class (EVC) or habitat of flora or fauna that has been defined or listed under the *Flora and Fauna Guarantee Act 1988* or *Environment Protection and Biodiversity Conservation Act 1999*, or an instrument under these Acts.
26. **‘Statutory referral’** means a referral of a matter in accordance with any requirement in earth resources legislation that requires the consent of, consultation with, or referral to, a DELWP Minister, the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forest and Lands Act 1987*) or the Executive Director Heritage Victoria within the meaning of the *Heritage Act 2017*.
27. **‘Unrestricted Crown land’** has the same meaning as defined in the MRSDA.
28. **‘Work plan’** means a work plan lodged under section 40(1) of the MRSDA, applying to mining or mining and exploration.
29. **‘Work plan variation’** means a work plan variation lodged under section 41(1) of the MRSDA, applying to mining or mining and exploration.

## TYPES OR CATEGORIES OF REFERRALS

30. This section sets out, via Table 1, the various types or categories of referrals, providing the sections of the MRSDA, where relevant; descriptions of the referrals, including things to consider; roles and responsibilities of DJPR and DELWP; and a summary of the various processes. The types and categories of referrals and where they fit within the overall approvals process for a mining operation, are illustrated in Figure 1.

**Table 1. Non-statutory referrals and statutory referrals and consents relevant to this Schedule**

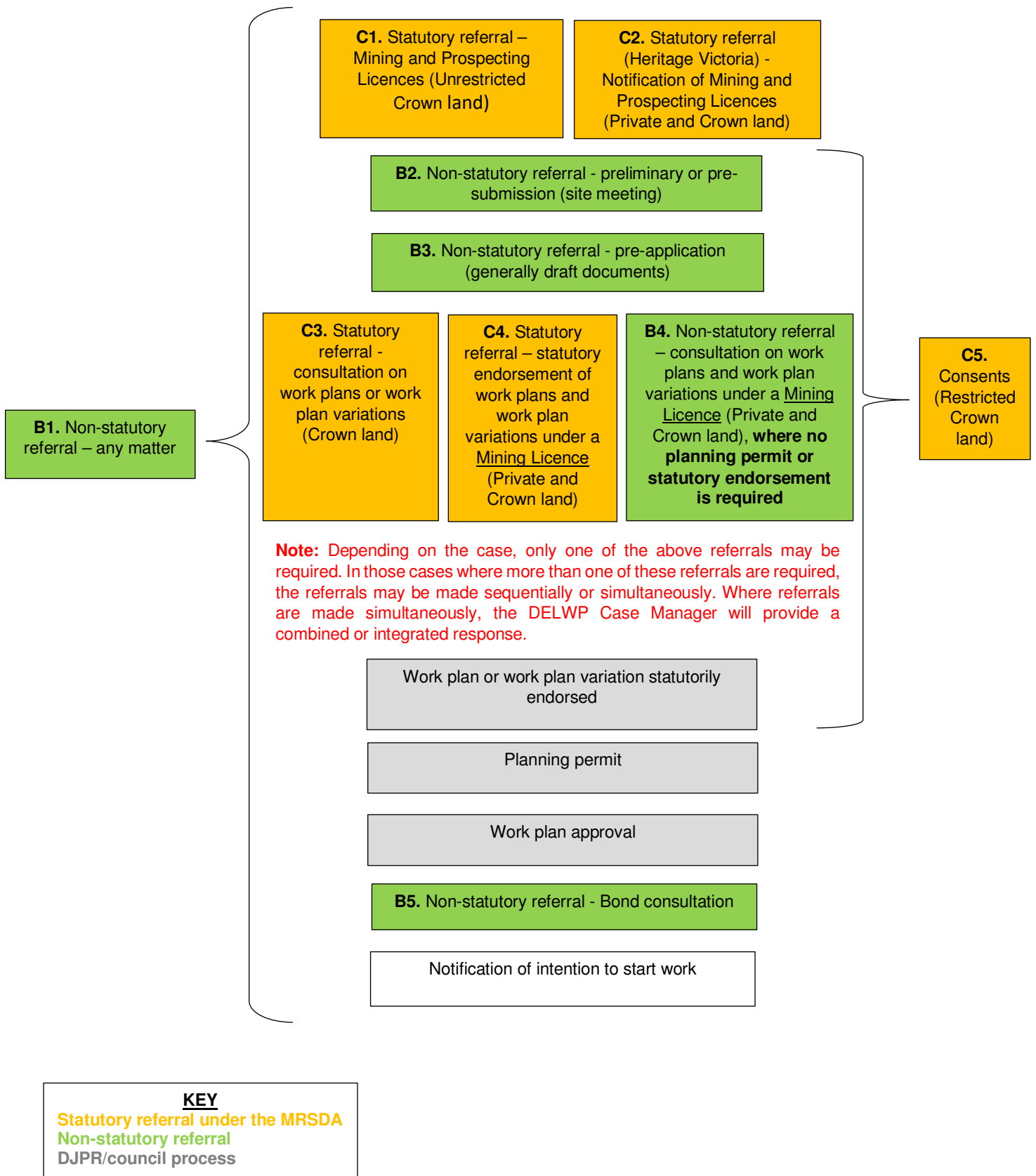
MRSDA Section	Description	Role/Responsibility
<b>B. Non-statutory referrals and consultation</b>		
<i>B.1 Non-statutory referrals – any mining matter</i>		
Agency advice - non-statutory referral	<p><b>Request for agency advice.</b>  <b>Note:</b> These referrals can occur at any time in the life of a mining project.</p> <p>DJPR seeks policy or technical advice or other assistance from DELWP in relation to a matter, including but not limited to:</p> <ul style="list-style-type: none"> <li>• potential risks, issues and constraints associated with operations</li> <li>• potential licence conditions</li> <li>• likelihood of grant of consent to works on <i>restricted Crown land</i></li> </ul>	<p>DJPR identifies the policy or technical assistance or advice it is seeking from DELWP.</p> <p>If applicable, DJPR identifies the legislative or regulatory basis upon which DJPR anticipates that a statutory referral/s will be made.</p> <p>DJPR refers matter to DELWP, identifying the timeframe in which it would like DELWP to respond.</p>

	<ul style="list-style-type: none"> <li>• a particular aspect of a work plan or work plan variation</li> <li>• mining not requiring a work plan</li> <li>• areas of DELWP responsibility, interest or expertise (clause 35)</li> <li>• access across Crown land and</li> <li>• rehabilitation expectations.</li> </ul>	<p>DELWP may request further information from DJPR and/or an extension of time to assess the referral.</p> <p>DELWP provides response/advice to DJPR.</p>
<i>B.2 Non-statutory referrals – preliminary or pre-submission (site meeting)</i>		
Preliminary or pre-submission referral – non-statutory referral	<p><b>Preliminary or pre-submission referrals.</b> <b>Note:</b> These referrals occur in the early stages of project development, generally at or via a site meeting.</p> <p>The proponent or, in some cases, DJPR seeks advice from DELWP to assist the proponent to ensure that relevant information and issues are considered in project design or document (usually work plan or work plan variation) preparation.</p>	<p>Refer to <i>Schedule 2.1 Pre-submission process</i>.</p> <p>DJPR encourages proponent to organise a site meeting (actual or virtual), ensuring that DELWP Case Manager (and DELWP Action Officers) are invited.</p> <p>DELWP provides advice to proponent or DJPR as relevant.</p>
<i>B.3 Non-statutory referrals – pre-application</i>		
Pre-application referral – non-statutory referral	<p><b>Pre-application referral.</b> <b>Note:</b> These referrals typically occur when the relevant documentation (e.g. draft work plan or work plan variation) is close to being finalised.</p> <p>The proponent (or less commonly, DJPR as authorised by the proponent) refers a draft document to DELWP for comment prior to formal submission to DJPR.</p> <p>Such referrals are beneficial, assisting:</p> <ul style="list-style-type: none"> <li>• the proponent to ensure that adequate information is provided and issues are addressed in the documentation and</li> <li>• DJPR and DELWP to assess the documentation within tight statutory timelines following formal submission.</li> </ul>	<p>Refer to <i>Schedule 2.1 Pre-submission process</i>.</p> <p>The proponent (or DJPR) refers a draft document (usually a draft work plan or work plan variation) to DELWP for comment.</p> <p>DELWP may request further information and/or an extension of time to assess the referral.</p> <p>DELWP reviews referral and provides response/advice to proponent (or DJPR).</p>
<i>B.4 Non-statutory referrals – consultation on work plans or work plan variations (private and Crown land) where no planning permission is required</i>		
Work plan or work plan variation referral where no planning permission is required – non-statutory referral	<p><b>Non-statutory referral of a work plan or work plan variation.</b> DJPR may seek policy or technical advice or assistance from DELWP in relation to a work plan or work plan variation where no planning permission and therefore no statutory endorsement is required.</p> <p>DJPR will generally ask DELWP to provide advice related but not limited to:</p> <ul style="list-style-type: none"> <li>• potential risks, issues and constraints associated with proposed operations</li> <li>• likelihood of grant of consent to works on <i>Crown land</i></li> <li>• areas of DELWP responsibility, interest or expertise (clause 35)</li> <li>• access across Crown land and</li> <li>• rehabilitation expectations.</li> </ul>	<p>DJPR identifies the policy or technical advice or assistance it is seeking from DELWP and the timeframe in which it would like DELWP to respond.</p> <p>DJPR refers matter to DELWP.</p> <p>DELWP reviews referral and provides response/advice to DJPR.</p> <p>DJPR provides a copy of the approved work plan or work plan variation and any conditions to DELWP.</p> <p><b>Note:</b> Time extensions will not generally be available for these referrals.</p>

<i>B.5 Non-statutory referrals – bond consultation (Crown land managed by DELWP)</i>		
Consultation on rehabilitation bonds – non-statutory referral	<b>Bond consultation referral.</b> These referrals may be made at intervals throughout the life of a mining operation.	Refer to <i>Schedule 2.2. Rehabilitation approvals and bond setting.</i>  DJPR will ensure that an appropriate rehabilitation bond is applied to any mining site. For mine sites on Crown land, DJPR will consult with DELWP to confirm bond adequacy.
<b>C. Statutory referrals and consents</b>		
<i>C.1 Statutory referrals – Mining and Prospecting Licences (Unrestricted Crown land managed by DELWP)</i>		
Sections 15(5A) and 27C(1) – statutory referral	<b>Unrestricted Crown land – consultation on licence conditions.</b> The Minister must, as soon as practicable after: <ul style="list-style-type: none"> <li>• an applicant for a licence covering unrestricted Crown land is notified that the application has the highest ranking (s15(5A)) or</li> <li>• a successful tenderer for a licence covering unrestricted Crown land is notified that the tender has been accepted (s27C(1)) -</li> </ul> consult with the Crown land Minister in relation to the carrying out of work on that land and the Crown land Minister may recommend to the Minister conditions to which the licence should be made subject.	DJPR refers the licence application to DELWP and identifies the timeframe in which it would like DELWP to respond.  DELWP may request further information or an extension of time to assess the referral.  DELWP reviews the application and responds with comments and/or recommends licence conditions.  DJPR provides a copy of the approved licence to DELWP.
<i>C.2 Statutory referrals – Mining and Prospecting Licences (private and Crown land)</i>		
Section 18-statutory referral	<b>Crown land and private land – notification of (highest ranking) mining or prospecting licence application.</b> The Department Head must, within fourteen (14) days after an applicant is notified that the application has the highest ranking, give notice of the application to the Executive Director within the meaning of the <i>Heritage Act 2017</i> .	DJPR notifies DELWP of the licence application.  DELWP reviews notification and provides response/advice to DJPR.  <b>Note:</b> For the purposes of this schedule, the Executive Director Heritage Victoria within the meaning of the <i>Heritage Act 2017</i> is the Director Heritage Victoria.
<i>C.3 Statutory referrals - consultation on work plans and work plan variations (Crown land managed by DELWP)</i>		
Sections 40 and 41 - statutory referral	<b>Crown land – consultation on work plans and work plan variations under a Mining Licence or Prospecting Licence.</b> The Department Head must lodge a copy of a work plan or work plan variation with the Crown land Minister without delay if any part of the land is Crown land.  The Crown land Minister has twenty-eight (28) days (or any longer period allowed by Minister) to comment on the rehabilitation plan, and/or recommend changes to the work plan or work plan variation or conditions to which it should subject.	DJPR refers work plan or work plan variation to DELWP.  If required, DELWP requests an extension of time to assess the work plan or work plan variation.  DELWP provides response to DJPR within twenty-eight (28) days (or any longer period allowed by DJPR).
<i>C.4 Statutory referrals - statutory endorsement of work plans and work plan variations (private and Crown land) where planning permission is required</i>		

Section 77TA	<p><b>Referral authority – definitions.</b>  <i>Referral authority:</i> means, in the case of a work plan or work plan variation for mining work under a Mining Licence, a person or body that has been specified in a planning scheme under the <i>Planning and Environment Act 1987</i> as a referral authority under that Act and the Environment Protection Authority.</p> <p><i>Statutory endorsement:</i> means an endorsement of a work plan or a variation to an approved work plan under section 77TD.</p>	
Section 77TE - statutory referral	<p><b>Referral of work plan or work plan variation.</b>  The Department Head must, within twenty-eight (28) days of receiving a work plan or work plan variation for statutory endorsement, give copy of plan to referral authority.</p>	DJPR refers work plan or work plan variation to DELWP (where DELWP is a referral authority).
Section 77TF – response to statutory referral	<p><b>Referral authority – response.</b>  A referral authority must consider every work plan or work plan variation and respond, in writing, to the Department Head within thirty (30) days with comments (if any) and state that it either does not object to statutory endorsement of the work plan or work plan variation; or does not object subject to conditions; or does object.</p>	<p>DELWP reviews a work plan or work plan variation and responds to DJPR within thirty (30) days, stating it:</p> <ul style="list-style-type: none"> <li>• does not object to the statutory endorsement of the work plan or work plan variation or</li> <li>• does not object subject to conditions or</li> <li>• objects on any specified ground.</li> </ul> <p><b>Note:</b> Failure to respond within the thirty (30) days means DELWP is taken to have not objected to the statutory endorsement of the work plan or work plan variation.</p>
Section 77TD(2)	<p><b>Statutory endorsement of work plan or work plan variation.</b>  The Department Head must not make a decision that is inconsistent with anything that a referral authority tells the Department Head under section 77TF.</p>	When considering statutory endorsement of a work plan or work plan variation, DJPR must not make a decision that is inconsistent with DELWP's response.
<i>C.5 Consents (Restricted Crown land managed by DELWP)</i>		
Section 44	<p><b>Consent to works – restricted Crown land.</b>  The consent of the Crown land Minister is required for works on restricted Crown land.</p> <p>Crown land Minister must grant consent (whether subject to conditions or not) or refuse consent within twenty-eight (28) days (or any longer period allowed by the Minister responsible for the MRSDA).</p> <p>Consent cannot be unreasonably withheld.</p> <p>If consent is not granted or refused within twenty-eight (28) days (or any longer period allowed by the Minister responsible for the MRSDA), it is deemed to be given.</p> <p>If consent is refused, a statement in writing of the reasons for the decision must be provided to the proponent within seven (7) days.</p>	<p>The proponent seeks consent to works from DELWP.</p> <p>Within twenty-eight (28) days (or any longer period allowed by DJPR), DELWP:</p> <ul style="list-style-type: none"> <li>• provides consent or</li> <li>• provides consent subject to conditions or</li> <li>• refuses to consent or</li> <li>• does not respond (in which case consent is deemed to have been given).</li> </ul> <p>In the case that DELWP refuses consent, DELWP will inform the proponent of the reasons for the refusal in writing within seven (7) days of the decision.</p>

**Figure 1: Non-statutory and statutory referral processes for mining operations**





## **PART A: GENERAL**

### **A.1 CONTACT DETAILS: DJPR OFFICERS AND DELWP CASE MANAGERS**

31. Contact details for communications between DJPR and DELWP under this Schedule are outlined in Table 2.

**Table 2: Contact details: DJPR Officers and DELWP Case Managers**

<b>DJPR Officer</b>	<b>DELWP Case Manager</b>
<b>DJPR Licensing Officer</b> (Licensing inbox) <a href="mailto:licensing.err@ecodev.vic.gov.au">licensing.err@ecodev.vic.gov.au</a>	Barwon South West <a href="mailto:bsw.planning@delwp.vic.gov.au">bsw.planning@delwp.vic.gov.au</a>
<b>DJPR Assessments Officer</b> (Assessments inbox) <a href="mailto:workplan.approvals@ecodev.vic.gov.au">workplan.approvals@ecodev.vic.gov.au</a>	Gippsland <a href="mailto:gippsland.planning@delwp.vic.gov.au">gippsland.planning@delwp.vic.gov.au</a>
<b>DJPR Compliance Officer</b> (Regulatory Compliance inbox) <a href="mailto:ERRchiefinspector@ecodev.vic.gov.au">ERRchiefinspector@ecodev.vic.gov.au</a>	Grampians <a href="mailto:grampians.planning@delwp.vic.gov.au">grampians.planning@delwp.vic.gov.au</a>
	Hume <a href="mailto:hume.planning@delwp.vic.gov.au">hume.planning@delwp.vic.gov.au</a>
	Loddon Mallee <a href="mailto:loddonmallee.planning@delwp.vic.gov.au">loddonmallee.planning@delwp.vic.gov.au</a>
	Port Phillip <a href="mailto:pp.planning@delwp.vic.gov.au">pp.planning@delwp.vic.gov.au</a>

### **A.2 ACHIEVING HIGH STANDARD REHABILITATION**

32. The DJPR Assessments Officer, in consultation with the DELWP Case Manager, will ensure that rehabilitation plans (a component of work plans and work plan variations) for mining sites:
- comply with the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019 (as amended from time to time)
  - provide for outcomes that minimise negative environmental, cultural, social and economic impacts
  - meet as a minimum, the standards set out in the relevant DJPR guidelines and
  - conform with the principles and guidance in *Schedule 2.2. Rehabilitation approvals and bond setting*.
33. The relevant DJPR Officer will ensure that an appropriate rehabilitation bond is applied to any mining site on Crown land. Refer to clause 68 and *Schedule 2.2. Rehabilitation approvals and bond setting*.

### **A.3 PROPONENTS TO DEVELOP MINING PROJECTS, WORK PLANS AND WORK PLAN VARIATIONS THAT MINIMISE NEGATIVE ENVIRONMENTAL, CULTURAL, SOCIAL AND ECONOMIC IMPACTS**

34. The DJPR Assessments Officer, in consultation with the DELWP Case Manager, will as a general principle, encourage proponents to design projects and develop work plans and work plan variations that:
- (a) minimise negative environmental, cultural and social and economic impacts
  - (b) protect communities/people, land, environment, heritage and cultural values and infrastructure
  - (c) recognise, respect and involve Traditional Owners where relevant
  - (d) ensure rehabilitated land is safe, stable and sustainable and capable of supporting the proposed land use/s
  - (e) minimise, wherever possible, the requirement for ongoing monitoring and maintenance and
  - (f) minimise accrual of financial and other liabilities to the state or impacts on the community and environment.

### **A.4 PRIMARY DELWP CONSIDERATIONS OR AREAS OF INTEREST IN RELATION TO REFERRALS**

35. Without limitation or restriction, in any referrals for advice, comments, recommendations or consents under this Schedule, DELWP's primary areas of interest will be:
- (a) environment, including protection of significant flora and fauna
  - (b) climate change
  - (c) energy
  - (d) land management, including operational considerations or constraints (protection of access roads; fire protection and management; Code Red forest closures etc.)
  - (e) heritage
  - (f) water and catchments
  - (g) planning
  - (h) native vegetation removal and offset requirements
  - (i) Traditional Owners and Aboriginal Self-determination and
  - (j) public land users and regional communities.

**Note 1:** Where it is proposed to remove native vegetation, DELWP will, as a minimum, require assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation*, DELWP 2017, or its successor.

**Note 2:** Heritage Victoria, within DELWP, has a decision-making role and regulatory responsibility under the *Heritage Act 2017* and any referrals or approvals required under that legislation must be complied with.

### **A.5 PRINCIPLES OF SUSTAINABLE DEVELOPMENT TO BE APPLIED IN DECISION-MAKING**

36. In undertaking any assessments and granting any approvals, the relevant DJPR Officer and DELWP Case Manager will give due regard to the principles of sustainable development, as set out under section 2A of the MRSDA.

## **A.6 RESPONSIBILITIES OF MINISTERS AND PUBLIC AUTHORITIES UNDER THE *FLORA AND FAUNA GUARANTEE ACT 1988* (FFG Act)**

37. Section 4B of the FFG Act requires that in the undertaking of powers and functions under the MRSDA, the relevant DJPR Officer and DELWP Case Manager must properly consider the objectives of and subordinate instruments under the FFG Act, including the State's Biodiversity Strategy.

## **A.7 DETERMINING CROWN LAND STATUS AND MANAGEMENT**

38. When mining work is proposed on Crown land, the DJPR Licensing Officer may consult with the DELWP Case Manager, who will facilitate identification or confirmation of the Crown land status and current Crown land manager (usually DELWP or Parks Victoria but can be another agency/manager under some circumstances, e.g. a committee of management under the *Crown Land (Reserves) Act 1978*).

**Note:** In identifying or confirming Crown land status, and if requested by the DJPR Licensing Officer, the DELWP Case Manager will identify as relevant:

- (a) reports of the Victorian Environmental Assessment Council (VEAC) or its predecessors, and Government responses to these and
  - (b) any other strategies, policies, plans etc. that may guide or constrain mining on the land.
39. Where Parks Victoria or another manager is identified as the Crown land manager, the relevant DJPR Officer will make all subsequent referrals to Parks Victoria or other Crown land manager (except where DELWP is engaged in its capacity as a referral authority, in which cases referrals will be made to DELWP and the Crown land manager, i.e. non-statutory referral **B.4** and statutory referrals **C.2** and **C.4**).
40. Based on clause 38, the DJPR Licensing Officer will determine if the:
- (a) Crown land is not available for mining under section 6 of the MRSDA
  - (b) Crown land that is available for mining is *unrestricted Crown land* or *restricted Crown land* or
  - (c) mining on the Crown land that is available is otherwise guided or constrained (e.g. as a result of recommendations of VEAC or its predecessors, and Government responses to these).
41. The DJPR Licensing Officer will refer this information (Crown land status, Crown land manager and availability of land for mining) to the proponent and advise that all future correspondence with DELWP must be addressed to the relevant DELWP Case Manager.

## **A.8 BASIS OF REFERRALS AND COMMUNICATIONS**

42. In line with clause 5 of the Head Document of this MoU, the relevant DJPR Officer will clearly express in writing to the DELWP Case Manager the basis for all referrals and communications under this Schedule, such that the DELWP Case Manager is fully informed regarding the:
- (a) type of statutory referral (sections of the MRSDA) or type of non-statutory referral under which DELWP is being engaged (Table 1) and as relevant
  - (b) obligations and responsibilities of DELWP under the relevant sections of the MRSDA in those cases of statutory referrals or
  - (c) expectations of DELWP in those cases of non-statutory referrals and communications (i.e. those referrals not pursuant to specific sections of the MRSDA).

43. In addition to clause 42, the relevant DJPR Officer will ensure that any referral made to the DELWP Case Manager contains adequate details and information on the matter to which the referral relates, including but not limited to:
- (a) draft work plans and work plan variations including rehabilitation plans, technical reports and other relevant documentation
  - (b) information on the location of the proposal and identification of the works areas
  - (c) any information available to the relevant DJPR Officer that would support the DELWP Case Manager in early identification of DELWP implications and
  - (d) any other information available that is deemed relevant by the relevant DJPR Officer.
44. DELWP Action Officers from various groups and divisions within DELWP may need to be consulted on a referral under this Schedule. The DELWP Case Manager will identify the relevant DELWP Action Officers as early as possible in the consultation process and, as a general principle, coordinate their respective inputs as required.
45. In relation to all referrals under this Schedule, the DELWP Case Manager will ensure responses are in writing.

#### **A.9 COMPLIANCE WITH TIME LIMITS AND TIME EXTENSIONS**

46. The DELWP Case Manager will endeavour to ensure that all comments, advice, recommendations and grant or refusal of consents, as relevant, are provided within:
- (a) twenty-eight (28) days or as extended for statutory referrals under sections 40, 41 and 44 of the MRSDA (statutory referrals **C.3** and **C.5**)
  - (b) thirty (30) days for statutory referrals under section 77TF of the MRSDA (statutory referral **C.4**)
  - (c) the timeframe requested by the relevant DJPR Officer or as otherwise agreed between the relevant DJPR Officer and the DELWP Case Manager for statutory referrals under sections 15(5A) and 27C(1) of the MRSDA (statutory referral **C.1**) or
  - (d) the timeframe requested by the proponent or the relevant DJPR Officer or as otherwise agreed between the proponent or the relevant DJPR Officer and the DELWP Case Manager for non-statutory referrals (**B.1 – B.5**).

**Note 1:** For the purposes of clause 46(a), sections 40(7), 41(6) and 44(5) of the MRSDA provide that time extensions may be granted for referrals under sections 40, 41 and 44 of the MRSDA respectively.

**Note 2:** For the purposes of clause 46(b), there is no provision in the MRSDA for time extensions for referrals under section 77TF of the MRSDA

47. Where a time limit or timeframe cannot be reasonably met, the DELWP Case Manager may, under certain circumstances seek a longer period for the provision of comments, advice, recommendations or grant or refusal of consents. The DELWP Case manager will, within:
- (a) fourteen (14) days of the receipt of a referral referred to in clause 46(a), request in writing with reasons to the relevant DJPR Officer that a longer period be allowed or
  - (b) a reasonable period before the end of the timeframe requested under clauses 46(c) and 46(d), request in writing with reasons to the proponent or relevant DJPR Officer that a longer period be agreed.

**Note:** Requests for time extensions under this clause should, as a general principle, indicate a revised date by which the response will be provided.

48. If a request is made by the DELWP Case Manager under clause 47, the relevant DJPR Officer or the proponent will assess the request and respond to the DELWP Case Manager, in writing, in a timely manner.

#### **A.10 COMMUNITY**

49. Where DELWP receives a complaint(s) from an adjacent landowner(s), occupier(s) or the public about impacts (e.g. noise, dust etc.) resulting from mining activities on Crown land, the relevant DELWP Officer will immediately advise the DJPR Compliance Officer of the nature of the complaint.
50. The DJPR Compliance Officer will investigate and attempt to resolve the complaint and advise the relevant DELWP Officer of the results of any investigation and subsequent action as soon as practicable.

#### **A.11 TRADITIONAL OWNERS**

51. The relevant DJPR Officer and the DELWP Case Manager will collaborate, share learnings and promote best practice in meeting DJPR's and DELWP's respective obligations and responsibilities in regard to Traditional Owner Procedural Rights in the consideration/approval of mining activities on Crown land.
52. The relevant DJPR Officer and the DELWP Case Manager will collaborate, share learnings and promote best practice in actively seeking to identify opportunities for and better enable Traditional Owner self-determination. The DELWP Case Manager will seek to apply or operate under the principles of *Pupangarli Marnmarnepu 'Owning Our Future'*, DELWP Aboriginal Self-Determination Reform Strategy 2020-2025.

## **PART B: NON-STATUTORY REFERRALS AND CONSULTATION**

### **B.1 NON-STATUTORY REFERRALS – ANY MINING MATTER**

53. Refer to Table 1, Figure 1 and Part A of this Schedule.
54. The relevant DJPR Officer will make a non-statutory referral of a mining matter to the DELWP Case Manager when DJPR:
  - (a) is seeking policy or technical advice or assistance from DELWP or
  - (b) wishes to facilitate discussions with DELWP before a statutory referral is made.
55. When making a non-statutory referral to the DELWP Case Manager, the relevant DJPR Officer will:
  - (a) identify the policy or technical advice or assistance being sought
  - (b) as relevant, identify the legislative or regulatory basis upon which DJPR anticipates that a statutory referral will be made and
  - (c) indicate the timeframe in which it would like DELWP to respond.
56. Following receipt of a referral of a matter under clause 54, the DELWP Case Manager will review the referral and:
  - (a) provide a response to the relevant DJPR Officer within the indicated timeframe or
  - (b) request the relevant DJPR Officer to provide further information to assist consideration of the referral and/or
  - (c) lodge with the relevant DJPR Officer a request for an extension of time to assess and respond to the referral (refer to clauses 46-48).
57. If a request is made for further information under clause 56(b), the relevant DJPR Officer will provide the information to the DELWP Case Manager in a timely manner and indicate when DJPR would like DELWP to respond.
58. Once further information has been forwarded to the DELWP Case Manager under clause 57, the DELWP Case Manager will respond to the relevant DJPR Officer within the indicated or otherwise agreed timeframe.
59. The relevant DJPR Officer will notify the DELWP Case Manager of the outcome of the matter in which DJPR sought advice or assistance and, where applicable, the DJPR Officer will provide the DELWP Case Manager with a copy of the relevant documentation.

### **B.2 NON-STATUTORY REFERRALS – PRELIMINARY OR PRE-SUBMISSION (SITE MEETING)**

60. Refer to Table 1, Figure 1 and Part A of this Schedule and *Schedule 2.1 Pre-submission process*.

### **B.3 NON-STATUTORY REFERRALS – PRE-APPLICATION**

61. Refer to Table 1, Figure 1 and Part A of this Schedule and *Schedule 2.1 Pre-submission process*.

### **B.4 NON-STATUTORY REFERRALS – WORK PLANS AND WORK PLAN VARIATIONS (PRIVATE AND CROWN LAND) WHERE NO PLANNING PERMISSION IS REQUIRED**

62. Refer to Table 1, Figure 1 and Part A of this Schedule.

63. In cases where no planning permission and consequently no statutory endorsement of a work plan or work plan variation is required, the DJPR Assessments Officer may nevertheless refer a draft work plan or work plan variation to the DELWP Case Manager for comment or technical advice.
64. Before referring a work plan or work plan variation to the DELWP Case Manager, the DJPR Assessments Officer will assess the work plan or work plan variation to ensure that the work plan or work plan variation is complete, including ensuring that the plan:
- (a) provides the information required by the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019 (as amended or replaced from time to time) and
  - (b) is consistent with relevant DJPR guidelines.
65. The DJPR Assessments Officer will indicate in any referral under clause 63, a reasonable timeframe in which DJPR would like DELWP to respond.
- Note:** Non-statutory work plan and work plan variation referrals still need to typically occur within the overall statutory timeframes specified under sections 40A(2) and s.41AAB(2) of the MRSDA, and accordingly, time extensions will not generally be available for these referrals.
66. Following receipt of a referral under clause 63, the DELWP Case Manager will review the referral and provide a response to the DJPR Assessments Officer within the indicated timeframe.
67. The DJPR Assessments Officer will provide the DELWP Case Manager with a copy of the approved work plan or work plan variation and any conditions.

#### **B.5 NON-STATUTORY REFERRALS – BOND CONSULTATION (CROWN LAND MANAGED BY DELWP)**

68. Refer to Table 1, Figure 1 and Part A of this Schedule and *Schedule 2.2 Rehabilitation Approvals and Bond Setting*.

## **PART C: STATUTORY REFERRALS AND CONSENTS**

### **C.1 STATUTORY REFERRAL: MINING AND PROSPECTING LICENCES (UNRESTRICTED CROWN LAND MANAGED BY DELWP) (Sections 15(5A) and 27C(1) of the MRSDA)**

69. Refer to Table 1, Figure 1 and Part A of this Schedule.
70. The DJPR Licensing Officer will, as soon as practicable after an applicant or a successful tenderer for a licence covering unrestricted Crown land is notified that the application has the highest ranking (s15(5A) of the MRSDA) or that the tender has been accepted (s27C(1) of the MRSDA), consult with the DELWP Case Manager in relation to the carrying out of work on that land.
71. The DJPR Licensing Officer will indicate in any referral under clause 70, a reasonable timeframe in which DJPR would like DELWP to respond.

**Note:** In most cases twenty-eight (28) days would be a reasonable timeframe for response.

72. Following receipt of a referral under clause 70, the DELWP Case Manager will consider the referral and may recommend to the DJPR Licensing Officer conditions to which the licence should be subject.

**Note:** The MRSDA (s26(2)) provides the following guidance in terms of the conditions that may be applied to a licence, including but not limited to conditions about:

- (a) rehabilitation of the land
  - (b) elimination and minimisation of the risks to the environment, any member of the public, land, property or infrastructure
  - (c) protection of groundwater
  - (d) providing and implementing environmental offsets on the land or any other land
  - (e) payment of an environmental levy and
  - (f) protection of community facilities.
73. The DELWP Case Manager will provide any recommendations about conditions to be attached to a licence to the DJPR Licensing Officer within the indicated or otherwise agreed timeframe (refer to clauses 46–48).
74. The DJPR Licensing Officer will provide the DELWP Case Manager with a copy of the approved licence.

### **C.2 STATUTORY REFERRALS (HERITAGE VICTORIA) – MINING AND PROSPECTING LICENCES (CROWN LAND AND PRIVATE LAND) (Section 18 of the MRSDA)**

75. Refer to Table 1, Figure 1 and Part A of this Schedule.
76. The DJPR Licensing Officer will, within fourteen (14) days after an applicant is notified that the application for a Mining Licence or a Prospecting Licence has the highest ranking, notify the DELWP Heritage Officer (Heritage Victoria) of the licence application.
77. Following receipt of the notification from the DJPR Licensing Officer, the DELWP Heritage Officer will:
- (a) review the notification and works area and
  - (b) facilitate a response to the DJPR Licensing Officer providing advice on the:
    - i. presence of places or objects included in the Victorian Heritage Register



- ii. presence of places or objects included in the Victorian Heritage Inventory
  - iii. requirements to comply with blanket provisions for the protection of archaeological sites and
  - iv. any *Heritage Act 2017* approvals (permits or consents) that may be required to authorise works on Heritage Register places of Heritage Inventory sites.
78. For those cases on Crown land where DELWP is the Crown land manager, the:
- (a) DELWP Heritage Officer will provide to the DELWP Case Manager a copy of any response to the DJPR Licensing Officer and
  - (b) DELWP Case Manager will engage Heritage Victoria as required and relevant throughout the development and approvals of a mining project to ensure the protection and management of places of historical cultural heritage significance.

### **C.3 STATUTORY REFERRAL: MINING WORK PLANS AND WORK PLAN VARIATIONS (CROWN LAND MANAGED BY DELWP) (Sections 40 and 41 of the MRSDA)**

79. Refer to Table 1, Figure 1 and Part A of this Schedule.
80. If any part of the land relating to a work plan or work plan variation is Crown land managed by DELWP, the DJPR Assessments Officer must without delay lodge a copy of the work plan or work plan variation with the DELWP Case Manager.
81. Before referring a work plan or work plan variation to the DELWP Case Manager, the DJPR Assessments Officer will assess the work plan or work plan variation to ensure that the work plan or work plan variation is complete, including ensuring that the plan:
- (a) provides the information required by the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019 (as amended or replaced from time to time) and
  - (b) is consistent with relevant DJPR guidelines.
82. Following receipt of the work plan or work plan variation from the DJPR Assessments Officer, the DELWP Case Manager will:
- (a) provide a response to the DJPR Assessments Officer within twenty-eight (28) days of receiving the work plan or work plan variation:
    - i. recommending any changes that should be made to the work plan or work plan variation or conditions to which approval should be made subject and
    - ii. commenting on the rehabilitation plan included in the work plan or work plan variation or
  - (b) request the DJPR Assessments Officer to provide further information to assist consideration of the referral and/or
  - (c) lodge with the DJPR Assessments Officer a request for an extension of time to assess and respond to the referral (refer to clauses 46-48).
83. If a request is made for further information under clause 82(b), the DJPR Assessments Officer will provide the information to the DELWP Case Manager in a timely manner and indicating the timeframe in which it would like the DELWP Case Manager to respond.
84. Once further information has been forwarded to the DELWP Case Manager under clause 83, the DELWP Case Manager will respond to the DJPR Assessments Officer within the indicated or otherwise allowed timeframe.

**C.4 STATUTORY REFERRAL: STATUTORY ENDORSEMENT OF WORK PLAN OR WORK PLAN VARIATION WHERE PLANNING PERMISSION IS REQUIRED (PRIVATE AND CROWN LAND, WHERE DELWP IS A REFERRAL AUTHORITY) (Sections 77TE, 77TF and 77TD(2) of the MRSDA)**

85. Refer to Table 1, Figure 1 and Part A of this Schedule.
86. A licensee (**holder of a Mining Licence**) may, as the case requires, give to the DJPR Assessments Officer, for statutory endorsement, a work plan or work plan variation.
87. Where DELWP is a referral authority in accordance with section 77TE(1) of the MRSDA, the DJPR Assessments Officer must, within twenty-eight (28) days, give a copy of the work plan or work plan variation to the DELWP Case Manager.
88. Before referring a work plan or work plan variation to the DELWP Case Manager, the DJPR Assessments Officer will assess the work plan or work plan variation to ensure that the work plan or work plan variation is complete, including ensuring that the plan:
- (a) provides the information required by the Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2019 (as amended or replaced from time to time) and
  - (b) is consistent with relevant DJPR guidelines.
89. In accordance with section 77TF of the MRSDA, the DELWP Case Manager will, within thirty (30) days of receiving the work plan or work plan variation from the DJPR Assessments Officer, advise the DJPR Assessments Officer that:
- (a) there is no objection to statutory endorsement of the work plan or work plan variation or
  - (b) there is no objection to statutory endorsement of the work plan or work plan variation subject to conditions or
  - (c) there is an objection to statutory endorsement of the work plan or work plan variation.
- Note 1:** The MRSDA does not allow extension of time for DELWP response beyond thirty (30) days.
- Note 2:** Failure to respond within the thirty (30) days means DELWP is taken to have not objected to the statutory endorsement of the work plan or work plan variation.
90. When considering statutory endorsement of a work plan or work plan variation, DJPR must not make a decision that is inconsistent with DELWP's response under clause 89.
91. The DJPR Assessments Officer will provide the DELWP Case Manager with a copy of the statutorily endorsed work plan or work plan variation.

**C.5 CONSENT OF CROWN LAND MINISTER FOR WORK ON RESTRICTED CROWN LAND MANAGED BY DELWP (Section 44 of the MRSDA)**

92. Refer to Table 1, Figure 1 and Part A of this Schedule.
93. If work under a Mining Licence or Prospecting Licence is proposed on restricted Crown land managed by DELWP, the DJPR Assessments Officer will advise the proponent to provide the DELWP Case Manager with an application for consent to works under a licence (section 44(1) of the MRSDA), along with the draft work plan or work plan variation if available.
94. Following receipt of the consent application from the proponent, the DELWP Case Manager will, as provided by section 44 of the MRSDA:

- (a) within twenty-eight (28) days of receiving the application, notify the proponent and the DJPR Assessments Officer whether the Crown land Minister (or delegate) has granted the consent (whether or not subject to conditions) or refused to grant the consent or
- (b) request the proponent to provide further information to assist consideration of the application and/or
- (c) lodge with the DJPR Assessments Officer a request for an extension of time to assess and respond to the application (refer to clauses 46-48).

**Note 1:** Under the MRSDA, consent must not be unreasonably withheld.

**Note 2:** If the proponent has not been notified of the outcome of the consent application within twenty-eight (28) days (or longer period allowed by DJPR), consent is deemed to have been given.

- 95. If a request is made for further information under clause 94(b), the proponent will be encouraged to provide the information to the DELWP Case Manager in a timely manner.
- 96. Once further information has been forwarded to the DELWP Case Manager under clause 95, the DELWP Case Manager will respond to the proponent within the timeframe allowed by the DJPR Assessments Officer.
- 97. If a consent application is refused by the Crown land Minister (or delegate), the DELWP Case Manager will provide the proponent with a statement in writing of the reasons for the decision within seven (7) days.
- 98. The DELWP Case Manager will, on request of the DJPR Assessments Officer, provide to the DJPR Assessments Officer a copy of the consent including any conditions to which the consent is subject.

**SIGNED ON BEHALF OF DJPR:**

Executed on the 22 day of 06 2022



.....  
Jenine Smith,  
Acting Executive Director, Earth Resources Regulation  
For Department of Jobs, Precincts and Regions

**SIGNED ON BEHALF OF DELWP:**

Executed on the 16 day of 06 2022



.....  
John Bradley,  
Secretary  
For Department of Environment, Land, Water and Planning