

# HCV Workshop

## DSD Presentation on the Hillside Mining Leases

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# Presentation Overview

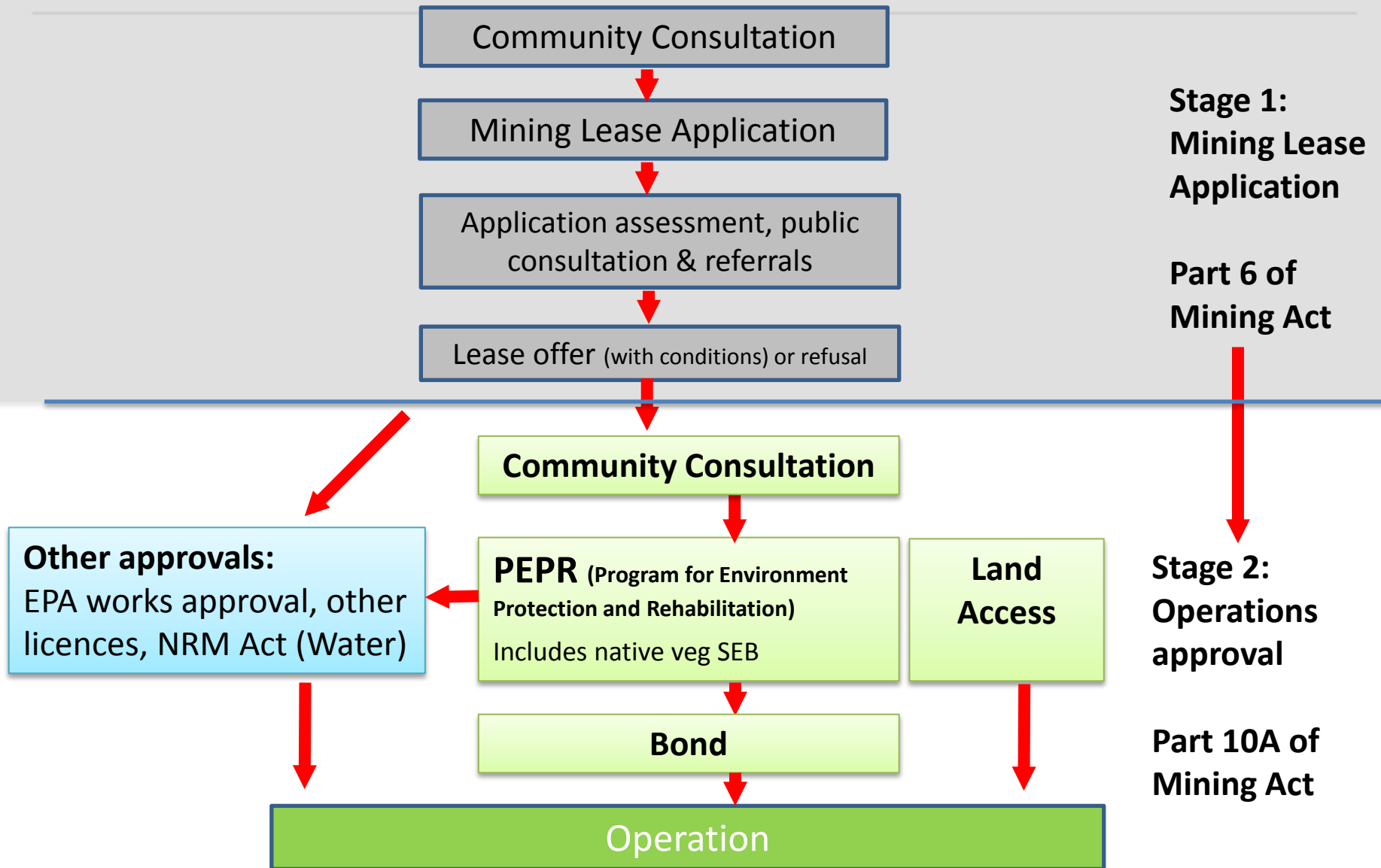
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- Introduction
- Legislative framework
- Lease conditions
- Change to operations
- PEPR
- Compliance assurance



# LEGISLATIVE FRAMEWORK

# Legislative process leading to Mining Operations



## Performance - based regulation ...

**Risk** and **outcome-based** regulatory approach underpins the Mining Act

- Adaptable to individual mines sites to ensure “**fit for purpose**” regulation
- Regulatory focus is on **what** should be achieved (outcomes) not **how** it should be achieved – only outcomes and measurement criteria are approved
- **Stakeholder input critical to setting outcomes (MLP) and criteria (PEPR)**
- Prescription on **how** outcomes should be achieved is justified in particular cases
- Assess capability to achieve outcomes (management systems)

# Environmental Outcomes

- Environmental outcomes are derived from Risk Assessment in the Mining Lease Proposal by the company and are set out in the PEPR
- Must cover construction, operation and mine closure
- Achievement of Outcomes is demonstrated by compliance with measurement criteria set out in the PEPR
- An outcome is a statement of the **expected impact on the environment** caused by the proposed or current mining activities

Outcomes are written in the following form:

***“impact level on receptor from mine source”***

***No impact on Human Health from mine generated dust***

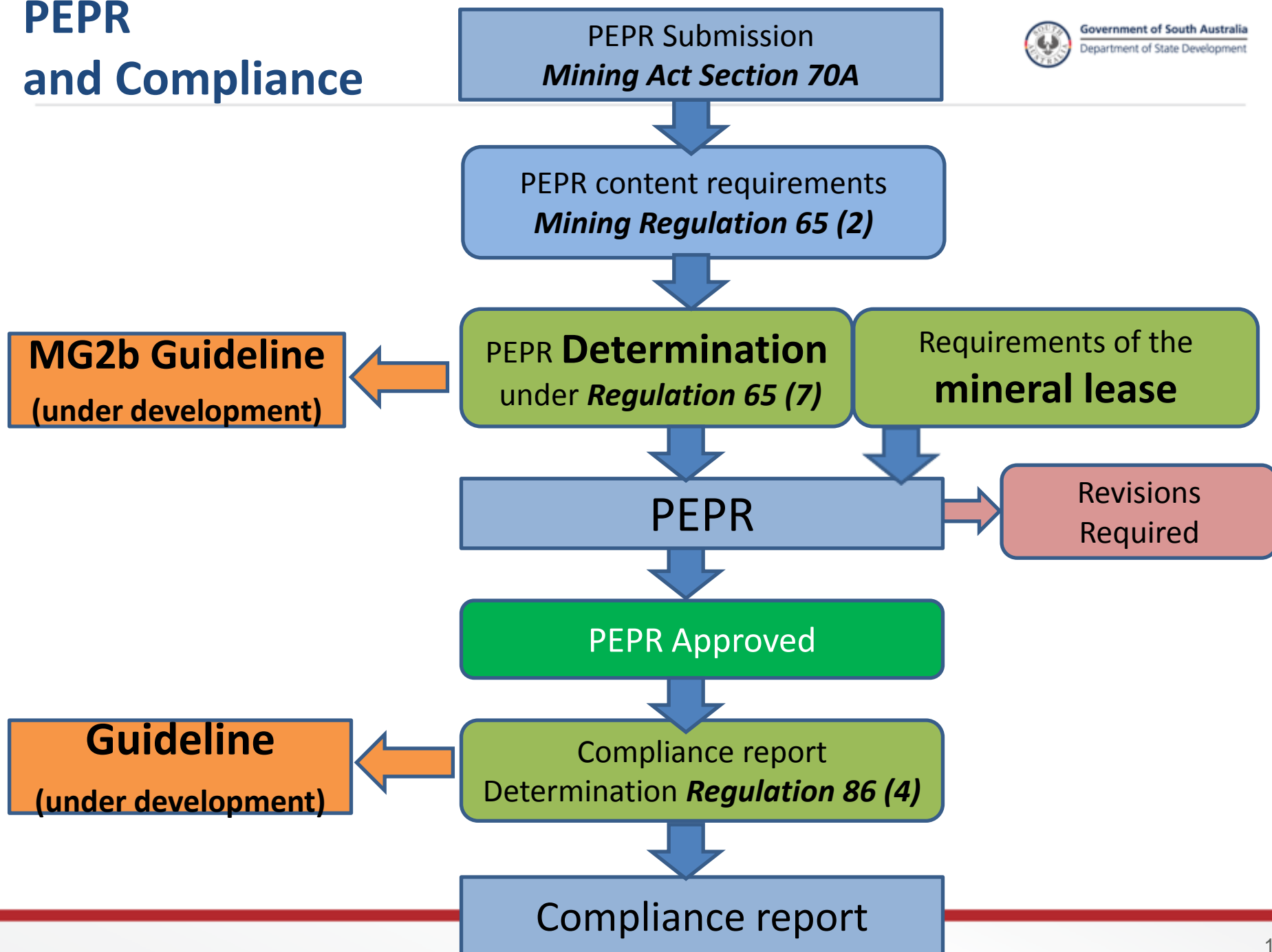
- **Measurement criteria** are the manner in which achievement of environmental outcomes are demonstrated
- Criteria involve monitoring the performance of the mining operation against defined target values
- 5 components of criteria:
  1. What is to be measured
  2. The form (method) of the measurement
  3. Location
  4. What constitutes the achievement of the outcome
  5. Any background or control data to be used



- PEPR outlines approved program of work
- No statutory consultation process required by legislation
- Company must demonstrate stakeholder consultation has occurred and document it within the PEPR
- Submit within 12 months of the grant of new mining lease
- PEPR is made publically available
- Can be reviewed at any time

**PEPR approval allows mining to commence (subject to other permits/licences)**

# PEPR and Compliance



## **Submitted PEPR's must comply with:**

- Part 10A of Mining Act
- Mining Regulation 65
- Minister's Determination under Regulation 65(7)

## **Content of PEPR must include:**

- Description of Mining Operations
- Results of Consultation
- Environmental Outcomes including mine completion outcomes
- Strategies for achieving the Outcomes
- Measurement (Compliance) Criteria
- Leading Indicator criteria

# Approval of the PEPR

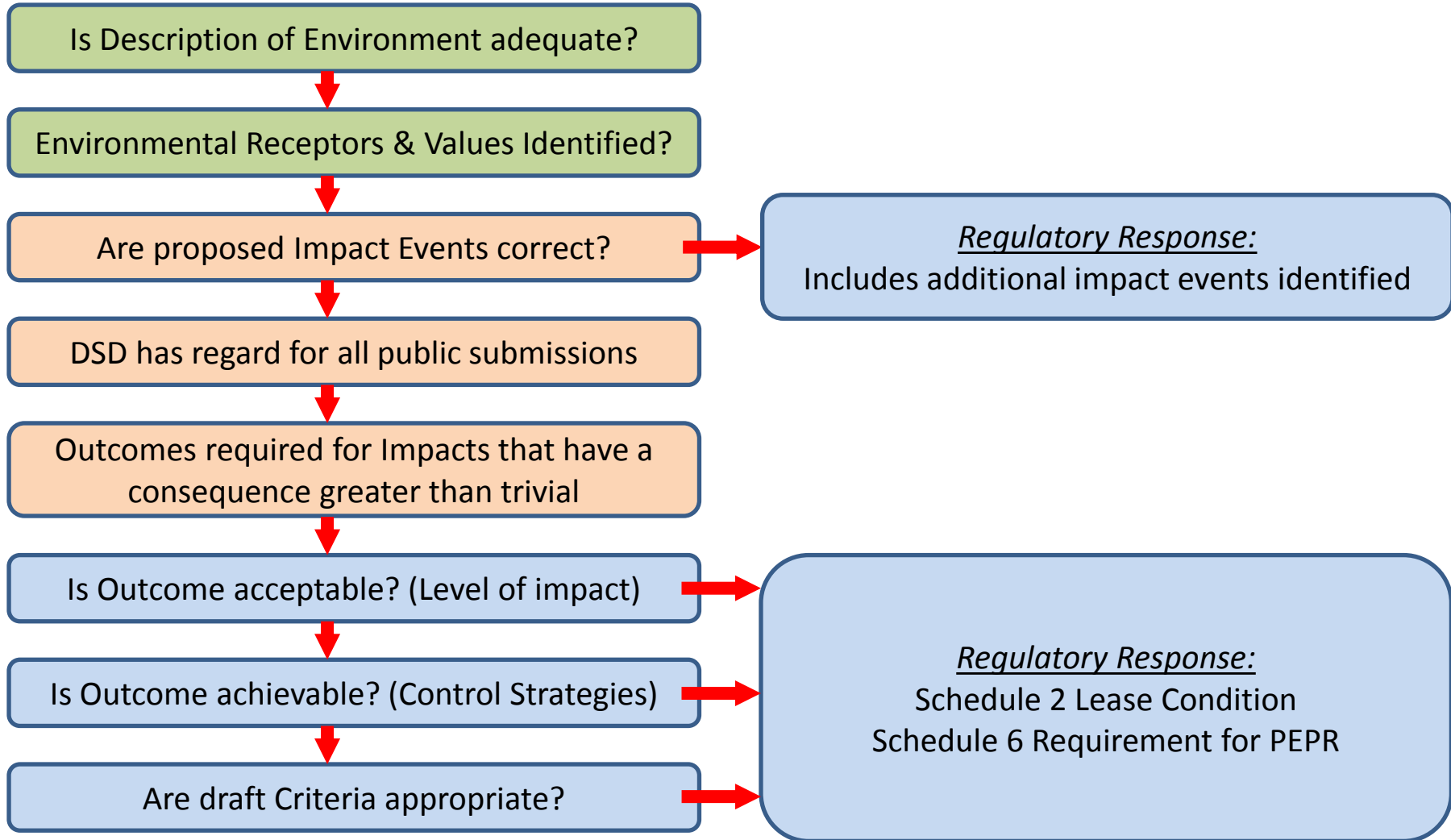
The Minister will only approve the 'PEPR' if:

- It is consistent with the description of operations outlined in the Mining Lease Proposal (MLP)
- Contains all of the information required by the Act, Regulations and Determination
- Additional Conditions about the PEPR are complied with
- It addresses strategies and criteria to be adopted to measure environmental outcomes listed in the Sixth Schedule, and
- Access has been authorised to all land relevant for the operations described in the PEPR, in accordance with the Mining Act.

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# LEASE CONDITIONS

# DSD Assessment of Mining Proposal



## **Main body:**

Contains restatements from the Mining Act in relation to the PEPR and the process for its approval

## **1<sup>st</sup> and 2<sup>nd</sup> Schedule – Additional terms and conditions:**

Specific rights and restrictions on the operation

## **6<sup>th</sup> Schedule – Outcomes, criteria & strategies required in PEPR:**

The types of environmental outcomes, criteria and strategies that Rex will need to address in its PEPR

2<sup>nd</sup> and 6<sup>th</sup> Schedules in combination reflect **all** outcomes which are to be addressed in the PEPR and **key** strategies and standards for criteria

**Propose to discuss individual conditions as part of workshop**



# Conditions with “average” measurements

## *Air Quality*

1. *The Tenement Holder must ensure that:*
    - 1.1 *The total PM 10 dust concentration (including both ambient and mine related dust) leaving the site is less than  $50\mu\text{g}/\text{m}^3$  as a 24 hour (midnight to midnight) **average of measurements** taken at intervals of not more than 10 minutes; or*
    - 1.2 *where the total PM 10 dust concentration entering the site exceeds  $50\mu\text{g}/\text{m}^3$  as a 24 hour (midnight to midnight) average of measurements taken at intervals of not more than 10 minutes, the total PM10 dust leaving the site does not exceed the measured level entering the site during that period.*
- 24 hour average based on **NEPM (National Environment Protection Measure)** standard
  - Averaging of data will be calculated based on the frequency of measurements/sampling (in this case intervals of no more than 10 minutes)
  - **Real time internet reporting** to public required (6<sup>th</sup> Schedule Clause 9)
  - The PEPR measurement criteria will specify where, when, how and how frequently PM10 will be measured
  - PM10 dust concentration measurement must comply with relevant international or **Australian Standard** (6<sup>th</sup> Schedule Clause 5.1)

# Ministerial discretion for amendments

- A number of conditions allow for the tenement holder to seek consent from the Director of Mines to an alternative to the requirements of a particular condition
- Examples: *Condition 3* PM2.5, *Condition 5* TSP, *Condition 11* Noise, *Condition 31* Adjacent land use
- In these instances, Rex will need to provide sufficient scientific evidence to satisfy the Director of Mines relating to each condition
- DSD will assess the information provided and make a determination on whether the alternative arrangement is acceptable, not acceptable, or whether further information is required

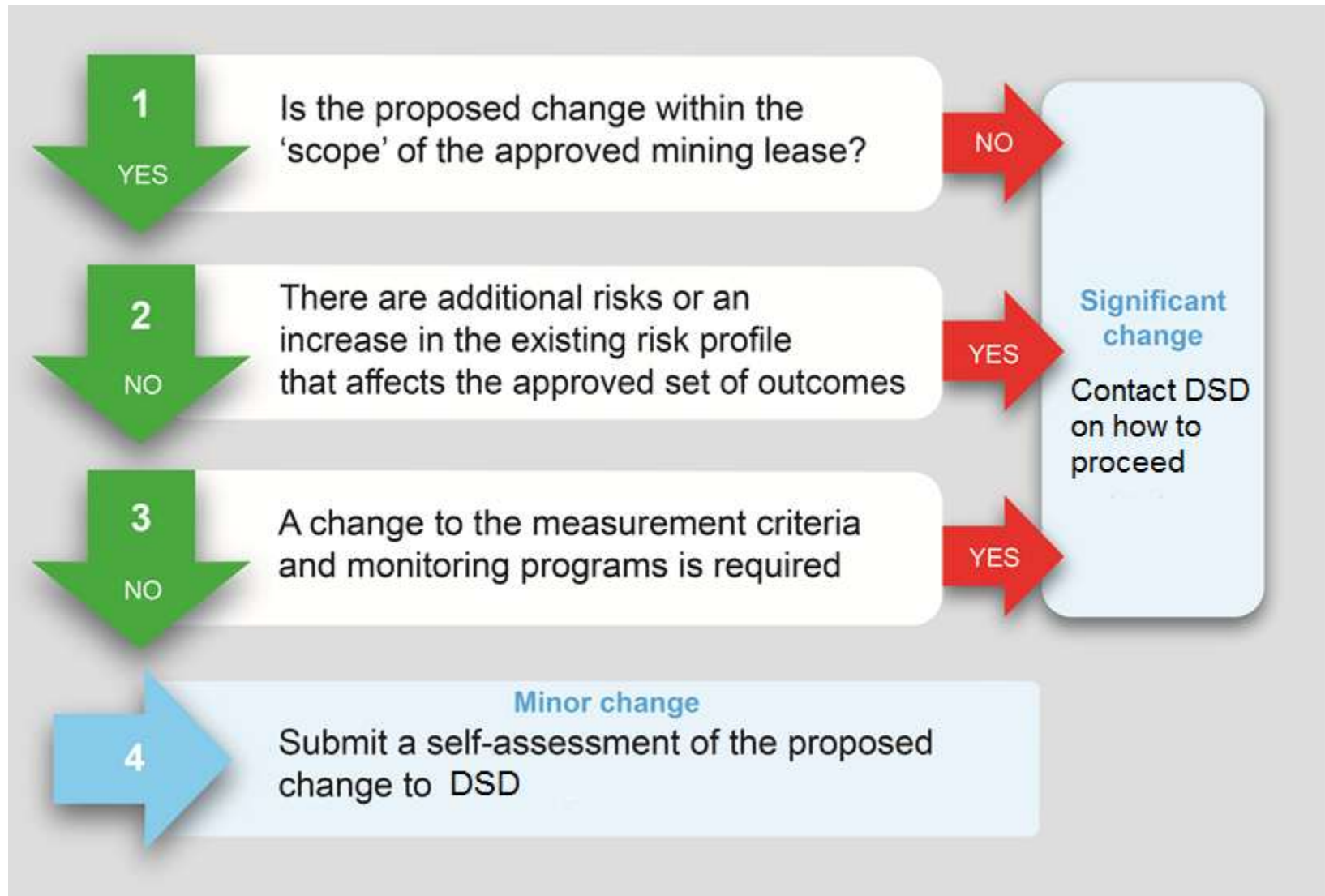
# Rainwater Tank Testing

- 4km chosen based on location in relation to nearest communities
- Compliance with Lease condition is minimum legislation requirement
- DSD encourages the community to continue engagement with Rex in regards to community expectations



# CHANGE TO OPERATIONS

# Change to operations



From DSD FAQ:

- If Rex propose changes to the scope of works beyond what has been outlined in the mining lease proposal these must go through a separate assessment and approvals process, which would include consultation with the community.

# Engagement on the PEPR

- *Regulation 65(10)* requires that a PEPR be submitted within 12 months of the grant of the tenement, or within such longer period as the Minister may determine or allow
- Tenement holder may seek an extension with justification as to the why the extension is sought
- *Regulation 35(a)* requires the commencement of mining within 12 months after the approval of the PEPR
- Government expectation is that once a mining lease is granted, the company will mine it to realise the economic benefits of the resource



## Mining Regulation 65(2)(a)

- PEPR must.... Include information on any consultation undertaken in connection with the proposed operations and, insofar as **any issue appeared to cause concern** to the persons with whom the consultation occurred, the steps (if any) that the holder of the tenement has taken, or proposes to take, to address those concerns

# Community Role in the PEPR

The tenement holder should, in the development of the PEPR and plans engage with stakeholders. Stakeholders should use this opportunity to:

- Understand the content of the PEPR
- Ask questions of the tenement holder
- Put forward issues or concerns

Outcomes for the PEPR are already determined through the lease application process

- Stakeholders have the opportunity to have input into the **measurement criteria**
- Stakeholders should be engaged on relevant **strategies** planned to achieve outcomes (e.g. for management of visual amenity)
- Other areas of stakeholder involvement – the Social Management Plan and Community Engagement Plan

## DSD expectations:

- Throughout the mine project life including the exploration & mine planning phases, proponents must engage with their stakeholders
- Expected minimum level of engagement – inform, feedback, response.

## Statutory Requirements:

- Mining Regulation 65(2)(a)
- PEPR Determination (Part 4) – the PEPR *must summarise the results of any attempted consultation that has been undertaken on the proposed operation.*
- The summary must list the stakeholders consulted with, concerns raised and the response to address those concerns.
- Requirement for formal **community engagement plan** through lease condition (*Condition 42*)

# Government contact for working groups



- DSD is engaging with Rex on what aspects of the PEPR can be progressed in the absence of detailed project plans
- DSD can assign gov experts to Working Groups (EPA, DEWNR, DPTI etc) after Rex finalise their project plans
- At this stage, DSD proposes one single point of contact for Working Groups

## DSD contact

Mining Assessments: Andrew Querzoli

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Ph. 8226 1928



# COMPLIANCE ASSURANCE

# Compliance Assurance

Who	Responsible for	How
<b>Tenement Holder</b>	Demonstrate that operations:	
	Are/have been compliant	Compliance Reporting to Regulator
	Will be compliant in the future	Demonstrate Capability Adopt and implement Mgmt Systems
	Reporting non-compliances and incidents	Incident Reporting to Regulator
<b>Regulator</b>	Verify Compliance Reporting	Inspections Independent Audits (Reg 67)
	Assess capability	Capability (Reg 89)
	Addressing non-compliances and incidents	Investigation and Enforcement

# Compliance Assurance

- Mining companies must operate in accordance with their PEPR
- Compliance Reporting
  - Content and frequency determined
  - Available on DSD website
- Independent Audits and Verifications
- Site Inspections
- Incident investigations

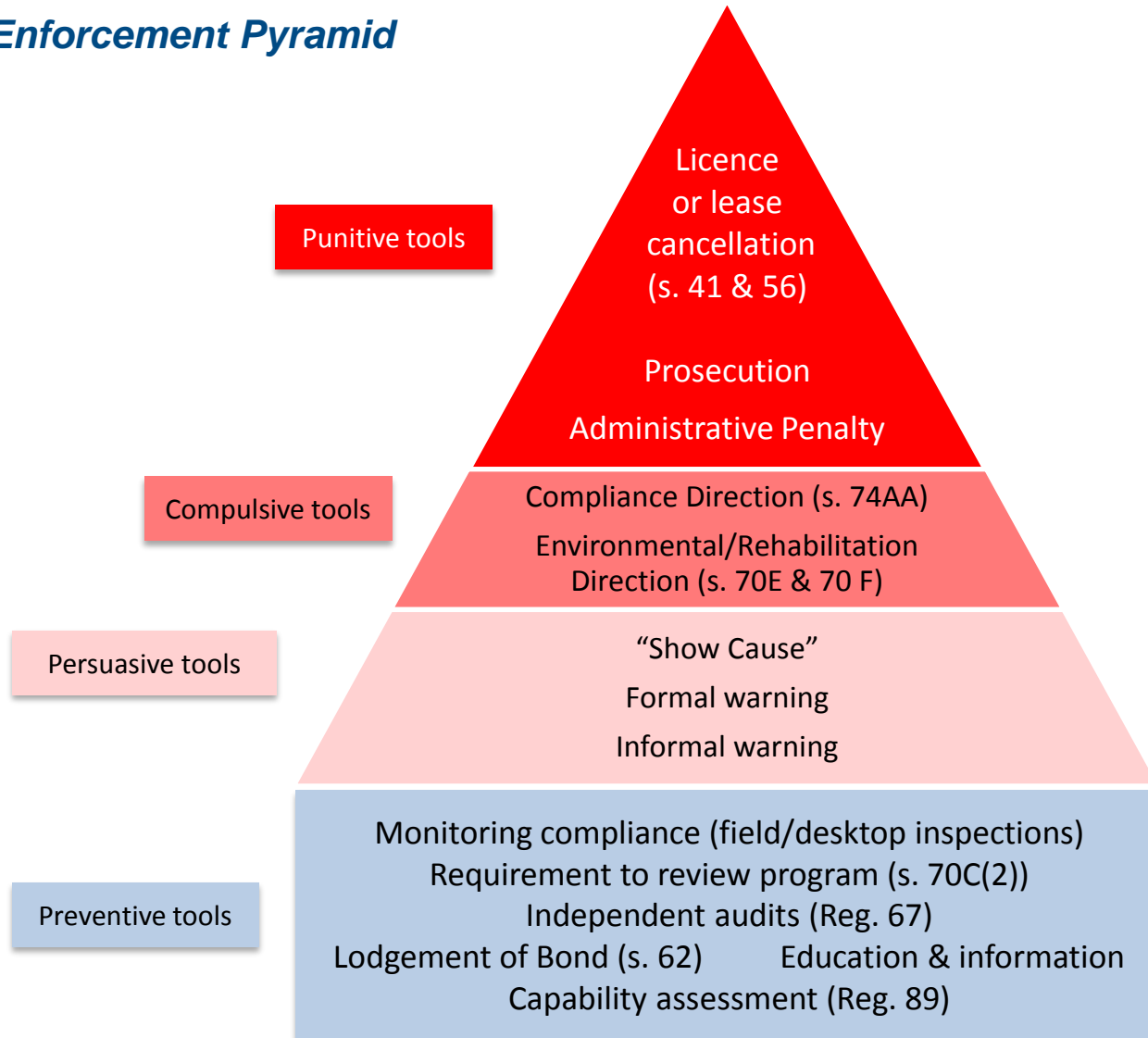


## Reporting of non-compliances with the Lease conditions or PEPR to DSD

- *Regulation 87 Initial incident reports*
  - Tenement holder must report a breach of an outcome in the PEPR
- The tenement holder must also report a non-compliance with Second Schedule lease conditions
- Public may also report matters of concern directly to DSD



## *Enforcement Pyramid*



## Response to a report of non-compliance

- Any reports of non-compliance will be investigated by DSD
- If a non-compliance is confirmed, DSD will initiate enforcement actions as per the pyramid
- The nature and timing of the action will depend on a range of factors including the type and severity of the breach, immediate and/or long term harm and the tenement holder compliance performance
- The timing of the regulatory response may require immediate intervention (e.g. excessive dust or noise), or may require a longer term rectification plan (e.g. soil and land disturbance)
- The Minister can impose an Environmental Direction (Section 70E of the Mining Act) to take action to prevent or minimise environmental harm
- The Minister can impose a Compliance Direction (s 74AA of the Mining Act) for a breach of lease conditions

# Public liability insurance

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Public liability insurance protects the tenement holder against the risk of being found liable to a 3<sup>rd</sup> party for death or injury, loss or damage of property or economic loss resulting from operations carried out under the tenement

# Rehabilitation bond

*Section 62(1)(b) of the Mining Act - The Minister may, by notice in writing served on an applicant for, or the holder of, a mining tenement, require him to enter into a bond in such sum and subject to such terms and conditions as ensure, in the opinion of the Minister, that - the present and future obligations of that person in relation to the rehabilitation of land disturbed by mining operations, will be satisfied.*

- The amount of bond will be based on the maximum third party cost of rehabilitation at any time over the life of mine covered by the PEPR
- The bond must be in place prior to the commencement of operations
- Can be reviewed at any time



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**Thankyou**

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