

Guideline for Agricultural Impact Statements at the Exploration Stage

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Cover Photo – Hunter Valley Drilling Company rig at work drilling DM Broke DDH4 east of Yellow Rock Creek. The outskirts of the village of Broke and the northern escarpment of the Wollemi National Park are in the background.

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Introduction

This guideline describes the requirements for an Agricultural Impact Statement (AIS) for mineral and petroleum (including coal seam gas) exploration activities. The purpose of an AIS is to ensure a focused assessment of the potential impacts of exploration activities on agricultural resources or industries. The information provided in an AIS will form a key component of the assessment process in terms of evaluating and avoiding impacts on agricultural resources or industries. An AIS supports the environmental assessment of applications to undertake exploration activities under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) by the NSW Resources Regulator within the Department of Primary Industries and Regional Development¹. The NSW Resources Regulator must examine and take account, to the fullest extent possible, all matters affecting or likely to affect the environment when assessing applications². It also must take into account any reduction in the aesthetic, recreational, scientific or other environmental quality or value of a locality³. This AIS guideline should therefore be read in conjunction with the relevant NSW Resources Regulator guidelines relating to the environmental assessment and determination of exploration activities

(www.resourcesregulator.nsw.gov.au). Whilst the NSW Resources Regulator is the “determining authority” for exploration activities, an AIS is referred to the Agricultural Land Use Planning Team within the Department of Primary Industries and Regional Development for specialist advice to ensure the agricultural impacts of an exploration activity have been appropriately assessed.

The guideline has been reviewed and amended, taking into account more than seven years of experience with the previous version. This revised guideline supersedes the previous version and should be used by proponents for new exploration activity approvals lodged after the date of publication. Exploration AISs will be accepted using the previous guideline for a period of up to six (6) months after publication of this Guideline.

Background

To balance the mining and petroleum industries with the need to protect important agricultural land and water resources an AIS will sometimes be required to support an application for mineral and petroleum exploration activities.

Before an explorer who holds an exploration licence or assessment lease can access land for exploration, a written land access arrangement must be in place between the explorer and with the landholders of land on which the exploration activities are intended to occur. A land access arrangement sets out things like where on the property the exploration activities will take place, agreed times, for how long and under what conditions, and what compensation may be paid to the landholder.

¹ The NSW Resources Regulator within the Department of Primary Industries and Regional Development is responsible for the regulation of ‘assessable prospecting operations’ (i.e. exploration activities) under the *Mining Act 1992*.

² Section 5.5 of *Environmental Planning and Assessment Act 1979*.

³ Clause 171 of *Environmental Planning and Assessment Regulation 2021*.

Land access arrangements are an important part of the pre-exploration process. Some of the information required in an AIS will also be required as part of the land access arrangement and the gathering of this information can help provide valuable insight about the agricultural resources or industries of the area being explored.

It is recognised that relative to mining operations, exploration has a smaller disturbance footprint and many of the impacts can be mitigated or ameliorated through the incorporation of environmental mitigation or management measures. However, larger more concentrated exploration activities, such as for resource definition purposes, can have the effect of concentrating impacts on localised areas with the potential to impact on agricultural land and water resources.

The purpose of an AIS

The purpose of an AIS is to ensure a focused assessment of the potential impacts of exploration activities on agricultural resources or industries. The information provided in an AIS will form a key component of the assessment process in terms of evaluating and avoiding impacts on agricultural resources or industries. Whilst the NSW Resources Regulator within the Department of Primary Industries and Regional Development is the “determining authority” for exploration activities under Part 5 of the EP&A Act, an AIS is referred to the Agricultural Land Use Planning Team within the Department of Primary Industries and Regional Development to ensure the agricultural impacts of an exploration activity have been appropriately assessed.

The term ‘*agricultural resources or industries*’ is used throughout this guideline to describe the land on which agriculture is dependent, including:

- land and soil capability,
- the quality, quantity and reliability of associated water resources that are linked to that land; and
- the agricultural enterprises or production systems that rely on these resources.

What information should be included in an AIS?

The information provided in an AIS for exploration activities should address the potential impacts of the proposed exploration activities on agricultural resources or industries. The information required to be included in an AIS for exploration activities is as follows:

1. Details of any consultation undertaken with stakeholders expected to be impacted by the exploration activities.
2. A description of the proposed exploration activities.
3. A description of the agricultural activities and resources on the land and adjoining land.
4. Details of any sensitive agricultural activities on the land and adjoining land.
5. Details of agricultural water sources on the land and adjoining land.

6. A description of the potential impacts of the exploration activities on the agricultural activities and resources on the land and on adjoining land and the proposed measures to avoid or mitigate these impacts.
7. Details of the proposed rehabilitation process.
8. Details of how the exploration activities will address agricultural biosecurity on the land and adjoining land.

Appendix 1 contains a table that expands on these matters and that should be used as a reference by exploration proponents when preparing an AIS.

When is an AIS required?

An AIS is required for exploration activities that:

- are subject to further approval⁴ under the *Mining Act 1992* or *Petroleum (Onshore) Act 1991*,
- require submission of a Review of Environmental Factors (REF) for assessment under Part 5 of the EP&A Act, and
- may impact on agricultural resources or industries (see Figure 1).

An AIS will be required when the land on which the exploration activities are proposed is considered to have significant agricultural value, and the nature of the exploration activities has the potential to have an impact on agricultural land or agricultural activities.

There will be situations where impacts on agricultural resources or industries are negligible so an AIS will not be required.

Figure 1 is a flow chart for determining when an AIS is required to be prepared to support an application for exploration activities.

⁴ Defined as 'assessable prospecting operations' pursuant to the *Mining Act 1992* and *Petroleum (Onshore) Act 1991*.

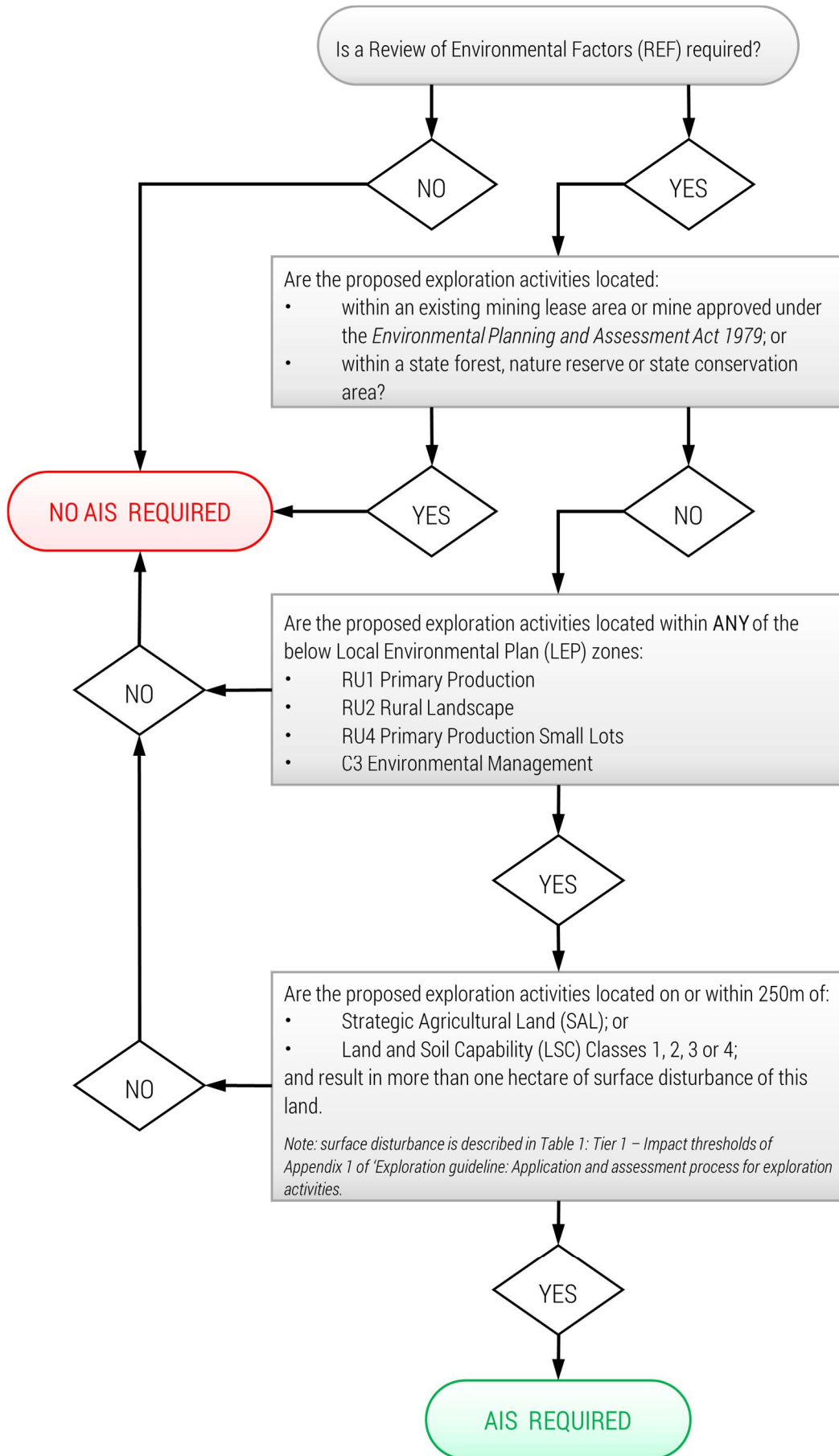


Figure 1: Determining when an AIS is required for Mineral or Petroleum Exploration

Information resources

Strategic Agricultural Land (SAL):

Strategic Agricultural Land (SAL) is either a Critical Industry Cluster (CIC) or Biophysical Strategic Agricultural Land (BSAL), as defined in the State Environmental Planning Policy (Resources and Energy) 2021. SAL is identified on the current maps that are available on the NSW Planning Portal or can be sourced from: <https://www.planningportal.nsw.gov.au/opendata/dataset/epi-land-use-strategic-agricultural-land>

Land and Soil Capability

NSW has a Land and Soil Capability Scheme that identifies the inherent physical capacity of the land to sustain a range of agricultural land uses and management practices in the long term without degradation to soil, land, air and water resources. The Land and Soil Capability Class assessment scheme uses the biophysical features of the land and soil to derive detailed rating tables for a range of land and soil hazards.

Maps of Land and Soil Capability can be sourced from:

- eSPADE tool: <https://www.environment.nsw.gov.au/eSpade2Webapp/>
- Sharing and Enabling Environmental Data in NSW (SEED): <https://www.seed.nsw.gov.au/>

Land Access Arrangement Information:

Before undertaking any land-based exploration activities, an explorer must enter into a written access arrangement with the landholder. Information on land access arrangements can be found at this link:

<https://meg.resourcesregulator.nsw.gov.au/mining-and-exploration/land-access>

Agricultural Biosecurity

Biosecurity is a critical issue for many agricultural enterprises and needs to be given appropriate emphasis. Biosecurity issues may need to be considered in the AIS depending on the type of exploration activity being undertaken, the equipment required for the exploration, the need for construction materials to be brought to the site and the location of the area involved.

Biosecurity issues are subject to the *Biosecurity Act 2015* and further information is available on the NSW Department of Primary Industries and Regional Development's website *Managing Biosecurity in NSW* <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity>

The Best Management Practices "myBMP" program is the environmental, safety and biosecurity management system used by growers. See www.mybmp.com.au.

Appendix 1

Consideration	Information to Address Consideration
1. Consultation	<p>A description of any consultation undertaken with stakeholders, the outcomes of that consultation and how any concerns raised by stakeholders will be addressed.</p> <p>Adjoining landowners should be consulted if they will be impacted by the proposed activities.</p> <p>Community consultation is a condition of all exploration and assessment leases granted, renewed or transferred after 1 March 2016. The <u>Exploration Code of Practice: Community Consultation</u> sets out the mandatory requirements for community consultation.</p>
2. Description of Proposed Exploration Activities	<p>A description of the type, location, intensity and duration of the proposed exploration activities, including:</p> <ul style="list-style-type: none"> • the method of exploration • the number of drill holes, drill pad size and new access tracks • total area to be disturbed • hours of operation • timeframe for completion of exploration activities • season in which activities will be undertaken • a map showing the location of activities in relation to the nearest town, agricultural land uses, resources and infrastructure • a map of the borehole/drill hole locations and access tracks.
3. Description of Agricultural Use and Resources	<ul style="list-style-type: none"> • A description of the nature and location of agricultural resources and land uses on the subject land, on adjoining land and in the wider area as appropriate, that have the potential to be impacted by the proposed exploration activity, including: • The agricultural enterprises undertaken on the land and the adjoining land. • Agricultural infrastructure such as irrigation areas, roads/driveways, fences, stock watering systems, storage and processing facilities etc. including any agricultural infrastructure the landowner is proposing to install during the period of exploration activities. • A map of the Land and Soil Capability Scheme soil classes for the land. • A map showing the proximity to Biophysical Strategic Agricultural Land (BSAL) and/or Critical Industry Clusters (CIC).

4. Sensitive Agricultural Activities	<p>A description of sensitive agricultural activities on the subject land, on adjoining land and in the wider area as appropriate, with the potential to be impacted by the proposed exploration activity.</p> <p>Sensitive agricultural activities are considered to be:</p> <ul style="list-style-type: none"> • Intensive plant agriculture such as orchards and vineyards. • Intensive livestock agriculture (e.g., feedlots, poultry farms, pig farms) • Animal breeding establishments (e.g., horse studs) • Breeding paddocks (e.g., lambing paddocks)
5. Agricultural Water Sources	<p>A description of the agricultural surface and groundwater sources on the site, adjoining land and the wider area as appropriate, with the potential to be impacted by the proposed exploration activity.</p>
6. Potential Impacts and Mitigation Measures	<p>A description of the type, duration and consequence of any potential impacts the exploration activities may have on agricultural land uses, resources or industries on the site, on adjoining land and in the wider area as appropriate.</p> <p>The impacts are expected to include, but may not be limited to:</p> <ul style="list-style-type: none"> • the spread of weeds, pests and disease; • dust; • noise; • vibration; • traffic movements; • disturbance of crops and livestock; • impacts on the quality or quantity of water resources; • impacts of water from drilling activities; • erosion and sedimentation; • contamination from fuel or chemicals used in the exploration activities. <p>A description of the measures proposed to avoid or mitigate these impacts.</p>
7. Rehabilitation	<p>A description of any rehabilitation activities that have been agreed with the landholder including the proposed method and timing of rehabilitation activities and any proposed monitoring.</p>
8. Agricultural Biosecurity	<p>A description of the biosecurity risks for the agricultural industries that may be impacted by the exploration activities, and the measures proposed to avoid or mitigate these risks.</p>

Consideration must be given to any farm-specific biosecurity plans as well as industry-specific biosecurity plans (e.g. viticulture, cotton, equine, grains, feedlots, poultry industries).

Specific consideration should be given to the need to bring material onto the site for construction of drill pads etc or rehabilitation of exploration activities.