



Department of **Water and Environmental Regulation**

Department of **Mines, Industry Regulation and Safety**

# Administrative Agreement

between the

**Department of Mines,  
Industry Regulation and Safety**

and the

**Department of Water and  
Environmental Regulation**

## Parties to this Agreement

### **DMIRS**

The Department of Mines, Industry Regulation and Safety (DMIRS) supports a safe, fair and responsible future for the Western Australian community, industry and resources sector.

### **DWER**

The Department of Water and Environmental Regulation supports Western Australia's community, economy and environment by managing and regulating the state's environment and water resources.



### 1. Introduction

This administrative agreement (the Agreement) sets out how the Department of Mines, Industry Regulation and Safety (DMIRS) and the Department of Water and Environmental Regulation (DWER) will interact with each other in relation to regulatory resource approvals services.

DMIRS supports a safe, fair and responsible future for the Western Australian community, industry and resources sector. DMIRS is responsible for regulating mining, petroleum and geothermal activities occurring in Western Australia under the *Mining Act 1978* and *Petroleum and Geothermal Energy Resources Act 1967*, *Petroleum Pipelines Act 1969* and *Petroleum (Submerged Lands) Act 1982*.

DWER supports Western Australia's community, economy and environment by managing and regulating the state's environment and water resources under the *Environmental Protection Act 1986*.

This Agreement seeks to facilitate the effective administration of the *Mining Act 1978*, *Petroleum and Geothermal Energy Resources Act 1967*, *Petroleum Pipelines Act 1969*, *Petroleum (Submerged Lands) Act 1982* and *Environmental Protection Act 1986*. This Agreement recognises that both DMIRS and DWER administer specific legislative requirements and adopt procedural responsibilities for environmental protection and regulation of mining activities. The primary intent of the Agreement is to ensure when the two agencies interact with each other, these legislative and procedural responsibilities are carried out in the most efficient, fair, transparent and consistent manner. It also ensures timely delivery of consistent and efficient advice, and reduction and where possible removal of administrative overlap and duplication within a risk-based regulatory approach.

### 2. Purpose

Both Parties have legislative obligations and requirements, and responsibilities for environmental and water resource protection and regulation of mining activities. The purpose of this agreement is to assist the Parties to meet their legislative obligations and their regulatory responsibilities. The Agreement provides a framework for specific arrangements between the Parties that are contained in a series of Schedules.

### 3. Values

This administrative agreement (the Agreement) sets out how the Parties will work together to regulate environmental and water resource impacts in the mineral resource sector.

The Parties will always work towards central principles that support good public administration, including accountability, transparency, integrity and efficiency.

The Parties will seek to apply a risk-based approach and to focus on outcomes rather than processes.

The Parties will remove administrative overlap and duplication where possible.

## **4. Agreed activities**

The Agreement provides an administrative framework that:

- Defines the roles and responsibilities of DMIRS and DWER in their interactions with each other;
- Recognises that there are both statutory and non-statutory processes requiring interactions between DMIRS and DWER; and
- Provides administrative arrangements, protocols, and standard endorsements and conditions.

Schedules have been developed for specific working arrangements. Schedules are attached to the Agreement and can be updated or revised by the Parties without requiring amendment to the overarching Agreement.

## **5. Respect roles and responsibilities**

The Parties will respect the roles and responsibilities of each other.

## **6. Planning and working cooperatively**

The Parties will plan and implement work to be cooperative with each other. The Parties will regularly forecast requirements for cooperative work under this Agreement to allow each other to plan and allocate resources as required.

## **7. Effective consultation and communication**

The Parties will:

- Exchange current, accurate and relevant information and advice in good faith; and
- Ensure detailed consultation occurs for proposed changes to relevant external and internal documents relating to the Agreement.

## **8. Timelines**

The Parties will use their best endeavours to meet the timelines for advice outlined in the Schedules. Both parties recognise that this may not always be achievable. Where possible the Parties will accommodate reasonable delays in the provision of advice.

## **9. Sharing information**

Both Parties will:

- maintain the use, security and non-disclosure of confidential information;
- assume information is confidential unless otherwise advised; and
- retain the property of their own documents.

Where the Parties consider the findings of an audit, investigation or inspection is of interest to the other Party, it will notify the other Party.

Where the Parties becomes aware of a circumstance that may be a non-compliance or a notifiable event under the other Parties' legislation, it will notify the other Party as soon as practicable.

The Parties will collect information that may assist each other in investigation of non-compliance, where practicable and permitted by law.

## **10. Complaints and Enquiries**

For complaints and enquiries related to a jointly regulated project, it is agreed that both Parties will undertake a collaborative approach to notify each other of the complaint and enquiry, where relevant.

Where it is determined that a complaint and/or enquiry should be referred to the other Party for action the Parties will consult each other and agree on which Party will take the lead role in the investigation. The Party conducting the investigation will ensure the other Party is kept up to date during the process of managing the complaint and/or enquiry.

## **11. Policy Development**

The Parties will consult with each other about policy development, new or revised legislation, policies and guidelines.

The Parties will aspire to complimentary policy and decision-making.

The Parties will develop and maintain internally- and externally-published documents consistent with the State Government's policy framework.

The Parties will collaborate to jointly publish documents where decision-making is shared between the Parties.

The Parties will share their internally-published documents, such as procedures, where decision-making is delegated from one Party to another.

## **12. Contentious Issues Management**

The Parties will undertake to co-ordinate advice on contentious issues to the respective Ministers and the media. The Parties will nominate a lead Party for contentious issues to provide advice to the respective Ministers, the media and the public. The lead Party will act with the agreement of the other Party and provide final versions of advice and correspondence to the other Party.

## **13. Dispute Resolution**

The Parties will always try to resolve any disputes that arise through negotiation commencing at the lowest, most informal level. The Parties will negotiate at equivalent level. If disputes can't be resolved they will be escalated to the next level.

Where necessary, matters will be referred to the Director General, DWER and the Director General, DMIRS. The Parties commit to resolving disputes without requiring escalation to Ministers of Parliament.

## **14. Governance**

The Parties will collaborate to achieve ongoing operation and oversight of the Agreement.

The Parties will establish and participate in regular management meetings with agreed outcomes recorded. The frequency of the management meetings will be decided by agreement and will be varied as required.

The Parties will hold interagency workshops specific to the content of each Schedule on a regular basis. The frequency of the interagency workshops will be decided by agreement and will be varied as required.

## 15. Audit

The Parties will undertake audits during the period of this agreement. Audits will be performed by agreement according to terms including audit scope agreed by the Parties for the purpose of the Audit.

The Parties will regularly audit performance of delegated statutory functions.

The Parties may use external providers to perform audits, or they may perform audits themselves.

Audits will focus on statutory compliance and on the effectiveness of the Agreement.

## 16. Duration

The Agreement will commence from the date of execution and continue on its terms, as amended from time to time, until it is terminated by written notice by either party.

## 17. Review

The Agreement (including its schedules) is subject to a review every five years. A review may be undertaken sooner if there is a substantial change in State government policy affecting the subject or substance of the Agreement.-

Amendments to the Agreement (including revising existing schedules or creation of new schedules) may also be implemented, with the signed approval of both Directors General, without seeking a review of this Agreement.

## 18. Legal status

This Agreement is not intended to be legally binding. It does not create enforceable obligations between the Parties. The Parties are bound by legislation to perform their functions. This Agreement does not abrogate the legislative responsibilities of the Parties.

## 19. Execution

The signatories below endorse this Administrative Agreement.



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**Phil Gorey**

Acting Director General

Department of Mines, Industry Regulation and Safety

6 January 2021



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**Mike Rowe**

Director General

Department of Water and Environmental Regulation

21 January 2021

**List of Schedules****Schedule 1****Title Description**

<b>Schedule 2</b>	<p><b>Inter-agency advice, sharing of information and timeframes</b></p> <p>Provisions for matters of a general nature to assist in the day to day operation and interaction between the two Parties. Matters may include (but are not limited to): hydraulic fracturing; compliance; industry regulation; and contaminated sites.</p> <p>Date approved: 21/01/2021</p> <p>Status: Current</p>
<b>Schedule 3</b>	<p><b>Environmental Impact Assessment</b></p> <p>Relating to advice to assist the Environmental Protection Authority assessment of major mineral, petroleum and geothermal projects under Part IV of the <i>Environmental Protection Act 1986</i>, including pre-referral discussions and post assessment issues including statement management and Environmental Management Plans.</p> <p>Date approved: 21/01/2021</p> <p>Status: Current</p>
<b>Schedule 4</b>	<p><b>Compliance with conditions in Implementation (Ministerial) Statements</b></p> <p>Relating to consultation and information sharing on compliance with conditions in Implementation (Ministerial) Statements, including:</p> <ol style="list-style-type: none"> <li>1. Compliance management program and inspection schedules;</li> <li>2. Information sharing;</li> <li>3. Complaints and enquiries; and</li> <li>4. Compliance actions and enforcement.</li> </ol> <p>Date approved: 21/01/2021</p> <p>Status: Current</p>
<b>Schedule 5</b>	<p><b>Clearing of native vegetation</b></p> <p>Delegation of provisions for clearing of native vegetation under the <i>Environmental Protection Act 1986</i> for mineral and petroleum activities regulated under the <i>Mining Act 1978</i>, the <i>Petroleum and Geothermal Energy Act 1967</i>, the <i>Petroleum Pipelines Act 1969</i> or the <i>Petroleum (Submerged Lands) Act 1982</i> and clearing subject to a Government agreement administered by the Department of Jobs, Tourism, Science and Innovation (JTSI) as defined in section 2 of the <i>Government Agreements Act 1979</i>.</p> <p>Date approved: 21/01/2021</p> <p>Status: Current</p>
<b>Schedule 6</b>	<p><b>Onshore petroleum and geothermal activities and water resources</b></p> <p>Relating to collaboration and coordination between the two departments when considering the potential impact on water resources by petroleum and geothermal activities regulated under the <i>Petroleum and Geothermal Energy Resources Act 1967</i>.</p> <p>Date approved: 21/01/2021</p> <p>Status: Current</p>

**Title Description**

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**Schedule 7 Mineral exploration and mining operations and water resources**

To streamline interaction between the two departments in regard to respective responsibilities for mineral exploration, mining operations and the management of water resources, within areas of water conservation, protection and management significance in Western Australia.

Date approved: 21/01/2021

Status: Current

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## Schedule 2

### Inter-agency advice, sharing of information and timeframes

#### Purpose

This Schedule establishes an information sharing protocol for collaboration, communication and agreed responsibilities and expectations between DMIRS and DWER to support each agency's respective regulatory responsibilities and meet Government and community expectations. Specifically, this Schedule outlines the agreed circumstances warranting the provision of advice and information sharing interactions between the agencies and the relevant associated timeframes.

#### Objective

The objectives of this Schedule include:

- Facilitating efficient and effective collaboration between DMIRS and DWER to assist each agency to perform its regulatory responsibilities;
- Outlining agreed circumstances that warrant the provision of advice and exchange of information to assist each agency to perform its regulatory responsibilities; and
- Setting agreed expectations and timeframes for the provision of advice and exchange of information where such actions are warranted.

#### Legislation

In performing their respective regulatory roles, DMIRS and DWER recognise that the agencies may assist one another in the form of providing specialist advice on specific subject matter or exchanging information to clarify matters or provide notification of potential problems.

This Schedule seeks to provide a framework for the various forms of inter-agency collaboration not specifically addressed by Schedules 3-7 and the relevant associated timeframes, as follows:

- DMIRS will respond to requests for advice within the timeframe requested by DWER.
- Where DMIRS requests advice, DWER will aim to provide its advice to DMIRS within 20 working days from the date of DMIRS' request. The commencement date of the request for advice, and the date of the provision of advice, is the date of the electronic communication.
- If no advice is received within 20 working days, DMIRS will issue a reminder giving DWER a further five working days (from the date of DMIRS' reminder) to provide its advice.
- If after the expiry of this reminder period no advice from DWER has been received, DMIRS will use its best judgement to decide whether or not to approve the application. DMIRS shall then notify DWER of the decision to approve or refuse to approve.
- Where DWER considers that insufficient information is available to assess an application and that additional information is required, DWER will notify DMIRS within 20 working days. DMIRS will be responsible for requesting this information from the proponent where they consider this is required to undertake the assessment of the application. The clock will be stopped from the date that DWER requests information from DMIRS until the date that the information is provided to DWER. DWER will then aim to provide its advice to DMIRS within 10 working days from the date of receipt of the required information, plus any additional time which remains on the clock (i.e. 10 additional days to the original 20 working day timeframe).
- Where required, DMIRS will seek DWER's advice regarding a petroleum title holder's past environmental performance to inform the grant, renewal or transfer of a petroleum title. When DMIRS requests advice, DWER will aim to provide the advice within 20 working days.

**Schedule 3****Communication Protocol between the Department of Water and Environmental Regulation and the Department of Mines, Industry Regulation and Safety.****For advice to assist the Environmental Protection Authority assessment of major projects including mineral, petroleum and geothermal proposals under Part IV of the *Environmental Protection Act 1986*.**

The information provided in this schedule relates only to the undertaking of environmental impact assessment of proposals under Part IV of the *Environmental Protection Act 1986* (EP Act).

**Formal consultation procedures**

Formal consultation procedures between the Department of Water and Environmental Regulation (DWER) and the Department of Mines, Industry Regulation and Safety (DMIRS) are detailed below. All requests for formal consultation will occur in writing from the Executive Director EPA Services, DWER (or delegate) to the Executive Director Resource and Environmental Compliance DMIRS (or delegate) where DMIRS is a Decision Making Authority (DMA) under Mining/Petroleum Acts and/or Mines Safety/Dangerous Goods Acts and vice versa.

Where a proposal is of State significance or particularly high public interest, the Director General, DWER (or where delegated, Executive Director EPA Services, DWER) may write directly to the Director General, DMIRS (with a copy of the letter emailed to the Executive Director, Resource and Environmental Compliance) to assist DMIRS in meeting the requested response timeframe. In some cases a specific timeframe for the Director General's response may need to be agreed based on consideration of complexity and urgency.

**Consultation criteria**

Consultation between the Parties throughout their respective administrative processes may be triggered where proposals are considered significant when applying the EPA's significance test (consideration of significance).

Consultation may also be triggered where proposals meet any of the following criteria, subject to the relevant Party internally applying the EPA's significance test (consideration of significance).

**Onshore criteria**

- Environmentally Sensitive Areas including:
  - Within 500 m of World Heritage Property
  - Within 500 m of a Bush Forever site
  - Within 500 m of a Threatened Ecological Community
  - Within 500 m of defined wetlands (as defined in Environmental Protection (Environmentally Sensitive Areas) Notice 2005)
  - Within 50 m of an area containing rare flora
  - Any area covered by an Environmental Protection Policy.
- Within 500 m of a declared/proposed State Conservation Estate, including National Park, Nature Reserve, Conservation Park, or State Forest and Timber Reserves.
- Within a Public Drinking Water Source Area.
- Within two (2) kilometres of a declared occupied town site (for Mining Proposals and petroleum Environment Plans only).
- Hydraulic fracture stimulation exploration and production / development activities<sup>^</sup>.
- Any area previously or currently subject to formal assessment by the EPA.

### Offshore criteria

- Within 500 m of a declared/proposed State Marine Conservation Estate, including Marine Park, or Nature Reserve.
- Wholly or partly within Special Protection Zones of State Marine Management Areas.
- Wholly or partly within a Marine Protected Area other than those managed under the *Conservation and Land Management Act 1984* (CALM Act), including:
  - Areas protected under the *Fish Resources Management Act 1994*
  - Areas protected under the *Rottnest Island Authority Act 1987*
  - Historic wreck sites
  - World Heritage Property.
- Seismic activity wholly or partly within intertidal zones or shallow waters (<15 m) in turtle breeding areas during turtle breeding season.
- Seismic activity wholly or partly located in whale mating/calving areas in the breeding season, or in locations that may affect migrating whales.
- Exploration or appraisal drilling wholly or partly within three (3) nautical miles of coast, islands or intertidal reefs.
- Production development and/or pipeline development in State Waters.
- Hydraulic fracture stimulation exploration and production / development activities<sup>^</sup>.
- Any area previously or currently subject to formal assessment by the EPA.

<sup>^</sup>As per the recommendations of the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia Final Report to the Western Australian Government (2018), all applications for onshore hydraulic fracture stimulation exploration and production proposals will be referred to the Environmental Protection Authority (EPA) for assessment under the *Environmental Protection Act 1986*. When a proposal is referred to the EPA, the EPA decides if the proposal should be assessed and, if so, the level of assessment.

The aim of the consultation is to determine if the activity to which a Programme of Work (PoW), Mining Proposal (MP) or Environment Plan (EP) relates is likely to have a significant impact on the environment and would require formal assessment by the EPA.

### Interactions between DMIRS and DWER through EIA process

Table 1 outlines process, timelines and expected information requirements for consultation throughout each of the stages of the environmental impact assessment (EIA) process through to post assessment and compliance. It also provides interactions that occur outside of the standard EIA process.

DMIRS will encourage proponents of relevant proposals (where there is potential for significant environmental impacts) to consult directly with DWER to determine whether referral of a proposal is required. DWER will encourage proponents of relevant proposals to discuss issues directly with DMIRS throughout the environmental impact assessment process. The extent to which DMIRS engages in those discussions is a matter for DMIRS to determine on a case-by-case basis

Either Party (or proponents as suggested by either Party) may seek informal comment from the other Party on draft documents on a case-by-case basis. The Party will determine the level of response based on potential environmental impacts and risks and available capacity.

Table 1: Protocol of interactions between DWER and DMIRS for mineral, petroleum and geothermal proposals assessed under Part IV of the EP Act.

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
1. Pre-referral	Referral of a proposal	DWER may seek advice from DMIRS	Relevant Branch Manager	Assessment Officer	Informal		Both Parties are to encourage proponents to consult with the other Party
		DMIRS may seek advice from DWER on whether to refer a proposal	Relevant Branch Manager	Team Leader	Informal	10 business days	<p>Prior to seeking DWER advice:</p> <ul style="list-style-type: none"> <li>DMIRS should initially refer to consultation trigger criteria (and undertake internal risk assessment applying the EPA's significance test)</li> <li>The DMIRS Assessment Officer should consult with relevant Team Leader</li> </ul> <p>Consultation trigger criteria are listed in the earlier text of this schedule</p> <p>When formal referral is considered appropriate, the DWER Assessment Officer will consult with the Executive Director, EPA Services, before providing confirmation to DMIRS that formal referral is required.</p>
	Referral	DMIRS refers proposal to EPA	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal		<p>Referral should be justified on basis of consultation trigger criteria, as well as any other advice received</p> <p>Referral to be made using s38 referral form found on EPA website</p>

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
	Consultation on referral issues	Either Party may seek advice from the other	Relevant Branch Manager or Executive Director, EPA Services *	Assessment Officer or Executive Director, Resource and Environmental Compliance*	Informal / Formal	10 business days (formal)	
2. Decision to assess proposal	Decision on level of assessment (LOA)	DWER must advise DMIRS of LOA outcome (when Minister for Mines and Petroleum and / or DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal		Formal letter provided (can be sent via email)
		DMIRS may be constrained from issuing any relevant approvals under s41(3)			Formal	Until LOA is released (if outcome is Decision to Not Assess); until EPA assessment is complete (if outcome is Decision to Assess)	

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
3. Assessment of proposal	Scoping (ARI)	DWER may seek advice from DMIRS with any preliminary scoping issues	Relevant Branch Manager	Relevant Team Leader	Informal		
	Draft scoping guideline (ARI), where required	DWER must seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	15 business days	Scoping guidelines are not required where factors have been adequately addressed in the proponent's referral documentation or draft ARI document
	Scoping - EPA-prepared scope (ER)	DWER may seek advice from DMIRS with any preliminary scoping issues	Assessment Officer	Relevant Team Leader	Informal		
		DWER must seek advice from DMIRS on draft scoping document (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	10 business days	
	Scoping - proponent-prepared scope (ER)	DWER must seek advice from DMIRS on draft scoping document (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	Either within public comment period or 10 business days if no public review	

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
	Assessment (ARI)	DWER must seek advice from DMIRS on draft ARI document (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	15 business days	
	Assessment (ER / PER) (draft)	DWER may seek advice from DMIRS	Relevant Branch Manager	Relevant Team Leader	Informal	15 business days	Pre-consultation to occur between the relevant DWER Branch Manager and DMIRS Team Leader prior to advice requests to determine DMIRS' capacity to review the draft PER document
	Public review (PER)	DWER must seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services* Director General, DWER***	Executive Director, Resource and Environmental Compliance* Director General, DMIRS***	Formal	Within public comment period	
	Response to submissions	DWER may seek advice from DMIRS	Assessment Officer	Relevant Team Leader	Informal		

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
4. Preparation of draft assessment report	Preparation of assessment strategy	DWER may seek advice from DMIRS, particularly on draft conditions (when DMIRS is a DMA under relevant legislation**)	Assessment Officer	Relevant Team Leader	Informal		
	Draft ARI conditions	DWER must seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	5 business days	Where possible, DWER will endeavour to provide prior notice of its intention to seek advice on a particular condition set
	Draft ER / PER conditions	DWER must seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	5 business days	Where possible, DWER will endeavour to provide prior notice of its intention to seek advice on a particular condition set
5. Post-assessment	Matters raised by EPA	DWER may seek advice from DMIRS on matters raised by EPA	Executive Director, EPA Services* (on advice from EPA Chairman)	Executive Director, Resource and Environmental Compliance*	Formal – Chairman directive	As agreed with EPA Chairman	This refers to matters raised by the EPA that may require further consideration of assessment strategy
	s45C post-assessment approvals	DWER may seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	10 business days (prior to completion of process)	

Stage of EIA	Step	Interaction	DWER personnel involved	DMIRS personnel involved	Formal/ Informal	Timeframe	Notes
	s46 amendment of conditions	DWER may seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	10 business days (prior to completion of process)	
	Environmental Management Plans (EMPs)	DWER may seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	20 business days (with aim for 10 business days where it is agreed that plans deal with straightforward matters)	Where conditions that require the preparation and implementation of EMPs with reference to DMIRS advice or approval, DWER will encourage direct proponent communication and consultation with DMIRS to address any outstanding matters of concern prior to submission
	Mine closure plans (MCP)	DWER may seek advice from DMIRS (when DMIRS is a DMA under relevant legislation**)	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	40 business days	Where conditions that require the preparation and implementation of a MCP with reference to DMIRS advice or approval, DWER will encourage direct proponent communication and consultation with DMIRS to address any outstanding matters of concern prior to submission
Other interactions	Hydraulic fracturing	DMIRS must seek advice of DWER	Executive Director, EPA Services*	Executive Director, Resource and Environmental Compliance*	Formal	As required	
	All other requests for advice	Either Party may seek advice from the other	Relevant Branch Manager	Relevant Team Leader	Informal	As required	

\*Refers to current position holder or a relevant delegate

\*\* DWER will consult with DMIRS at referral, assessment, and post assessment stages where appropriate, in cases where:

- DMIRS is a DMA under mining related acts (*Mining Act 1978, Offshore Minerals Act 2003, and the Mining Rehabilitation Fund Act 2012*)]
- DMIRS is a DMA under petroleum related acts (*Petroleum and Geothermal Energy Resources Act 1967, Petroleum Pipelines Act 1969, and the Petroleum (Submerged Lands) Act 1982*);
- Dangerous goods or safety approval is required (*Dangerous Goods Safety Act 2004, and Mines Safety and Inspection Act 1994*)] or
- DMIRS is considered to be a technical subject matter expert.

\*\*\*Where a proposal is of State significance or particularly high public interest, the Director General, DWER (or where delegated, Executive Director EPA Services, DWER) may write directly to the Director General, DMIRS (with a copy of the letter emailed to the Executive Director, Resource and Environmental Compliance) to assist DMIRS in meeting the requested response timeframe. In some cases a specific timeframe for the Director General's response may need to be agreed based on consideration of complexity and urgency.

## Regions

Table 2 outlines the regions under the responsibility of the Mining and Industrial North Branch, Mining and Industrial South Branch and Strategic Assessments Branch, as a general guide (noting that this does not preclude any Branch from reallocating a proposal to another for assessment).

*Table 2: DWER EPA Services Assessment Branches and relevant regions for assessment of proposals*

Branch	Relevant Regions
Mining and Industrial North	Kimberley, Pilbara, Gascoyne
Mining and Industrial South	Mid-West, Goldfields-Esperance, Wheatbelt, Perth, Peel, South West, Great Southern
Strategic Assessments	Any region

## Document Distribution

Formal requests for advice and supporting documentation from DWER to DMIRS will be sent to the DMIRS Environment Part 4 email address ([environment.part4@DMIRS.wa.qov.au](mailto:environment.part4@DMIRS.wa.qov.au)). For large documents the DWER will utilise online cloud services to facilitate DMIRS access to documents. DMIRS requests for advice on pre-referral and referral, and DMIRS responses to DWER requests for advice will be sent to ([registrar@epa.wa.qov.au](mailto:registrar@epa.wa.qov.au)) with a copy provided to the relevant DWER Branch Manager.

## Timelines

The Parties will use their best endeavours to meet the timelines for advice outlined in this protocol. Both parties recognise that this may not always be achievable. In these circumstances the Parties will endeavour to accommodate reasonable delays in the provision of advice.

To meet target times for formal advice requests referred to in this document, open communication between DWER and DMIRS staff during the assessment process on the progress of assessments and upcoming advice requests will be necessary. It is expected that each Party will provide adequate information to the other where relevant, as outlined in each Party's internal guidance document/s.

## Contacts and Delegations

The Executive Director, Resource and Environmental Compliance Division, DMIRS may nominate another DMIRS contact as the point of contact with respect to any specific proposal or request.

The Executive Director, EPA Services Directorate, DWER may nominate another DWER contact as the point of contact with respect to any specific proposal or request (if relevant, where delegation allows).

## Problem Solving / Escalation of Issues

It is desirable for officers of DWER and DMIRS to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time. The scheduled monthly meeting that takes places between DWER and DMIRS is an appropriate avenue to discuss any major projects and issues for resolution.

If issues remain unresolved, Managers of the relevant branches of DMIRS and DWER will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the Director General, DWER and the Director General, DMIRS.

**Review**

Either Party may seek to review these procedures at any time; however these procedures are to be reviewed within two years of the commencement date of this schedule and as required thereafter.

**Schedule 4****Communication Protocol between the Department of Water and Environmental Regulation and the Department of Mines, Industry Regulation and Safety on compliance with conditions in Implementation (Ministerial) Statements****Formal and Informal Consultation**

All requests for formal consultation will occur in writing from the Director Assessment and Compliance Division, DWER to the Executive Director, Resource and Environmental Compliance, DMIRS and vice versa.

The Parties may seek informal comment on a range of compliance issues on a case by case basis between individual officers.

**Compliance and enforcement of implementation conditions**

In monitoring compliance and enforcement of implementation conditions on Ministerial Statements the key areas of collaboration identified and agreed by each Party include:

**1. Compliance Management Program and Inspection Schedules**

The Parties may consult each other during development of their respective compliance work programs and schedules for jointly regulated projects to support alignment and joint inspections where practical. The Parties will provide a copy of the finalised compliance plan and inspection schedule to facilitate pre planned involvement where relevant. Updates of revised programs and schedules will be provided as required.

**2. Information Sharing**

Where either of the Parties considers the findings of an audit, investigation or inspection is of interest to the other Party, it will notify the other Party.

Where one Party becomes aware of a compliance issue that may be notifiable under the other Parties' legislation, the initial Party will inform the other Party as soon as practicable.

**3. Complaints and Enquiries**

For complaints and enquiries related to a jointly regulated project, it is agreed that both Parties will undertake a collaborative approach to notify each other of the complaint and enquiry, where relevant.

Where it is determined that a complaint and/or enquiry should be referred to the other Party for action the Parties will consult each other and agree on which Party will take the lead role in the investigation. The Party conducting the investigation will ensure the other Party is kept up to date during the process of managing the complaint and/or enquiry.

**4. Compliance Actions and Enforcement**

For compliance and enforcement actions related to jointly regulated projects it is agreed that both Parties will undertake a collaborative approach to notify each other in relation to the issuing of non-compliances where relevant. Consultation will occur at the earliest practical time following an incident.

The Parties may, in accordance with their statutory responsibilities, initiate separate investigations of the same compliance issue, which may be for different purposes, however where appropriate the Parties will consult and agree on which Party will take the lead role in taking enforcement actions.

The Parties commit to working effectively and efficiently, to ensure that orderly enforcement and compliance actions are undertaken focussing on using the most relevant legislation. In the case where prosecution action is to be taken, the Parties will agree under which Act the enforcement action should proceed.

### **Timelines**

The Parties will use their best endeavours to meet the timelines for advice outlined in this protocol. Both Parties recognise that this may not always be achievable. In these circumstances the Parties will endeavour to accommodate reasonable delays in the provision of advice.

To meet target times for formal advice requests referred to in this document, open communication between DWER and DMIRS staff will be necessary.

### **Problem Solving / Escalation of Issues**

It is desirable for officers of the DWER and DMIRS to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time.

If issues remain unresolved, Managers of the relevant branches of DMIRS and DWER will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the Director General, DWER and the Director General, DMIRS.

### **Review**

Either Party may seek to review these procedures at any time; however these procedures are to be reviewed within two years of the commencement date of this schedule and as required thereafter.

*Table 3: Communications protocol between DWER and DMIRS on compliance with conditions in Ministerial Statements*

<b>Stage/Task</b>	<b>Type and timeframe</b>	<b>DWER addressee and approving officer</b>	<b>Advice sought and information provided</b>	<b>DMIRS addressee and approving officer</b>	<b>Notes</b>
General compliance issues	Either Party seeking advice from the other Party  Informal – meetings, phone and email  Timeline – as agreed	Environmental officers, Senior Manager Environmental Compliance or through the Compliance inbox compliance@dwer.wa.gov.au	Exchange of compliance information, findings of an audit, investigation or inspections that are of interest to the other Party.	Relevant General Manager or Team Leader	
Compliance monitoring plan and inspection schedule	Either Party seeking advice from the other Party  Formal  Timeline – as agreed	Senior Manager Environmental Compliance or through the Compliance inbox compliance@dwer.wa.gov.au	The sharing of compliance programs and inspection schedules.	Relevant General Manager	Compliance monitoring plan and inspection schedules should be shared at the start of each financial year and any updates as they arise.
Complaints and enquiries	Either Party seeking advice from the other Party  Formal or informal  Timeline – as required	Senior Manager Environmental Compliance or through the Compliance inbox compliance@dwer.wa.gov.au	The sharing of information and expertise in relation to any enquiries or complaints relating to Ministerial Statements.	Relevant General Manager	
Compliance and enforcement actions	Either Party seeking advice from the other Party  Formal or informal  Timeline – as required	Senior Manager Environmental Compliance  Executive Director, Compliance and Enforcement Division	The sharing of information and expertise in relation to compliance and enforcement actions.	Relevant General Manager  Executive Director, Resource and Environmental Compliance, or delegate	

## Schedule 5

### **Administrative Agreement between Department of Water and Environmental Regulation and Department of Mines, Industry Regulation and Safety [relating to clearing of native vegetation]**

Delegation of provisions for clearing of native vegetation under the *Environmental Protection Act 1986* for mineral and petroleum activities regulated under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982* and for clearing subject to a Government agreement administered by the Department of Jobs, Tourism, Science and Innovation as defined in section 2 of the *Government Agreements Act 1979*.

#### **Acronyms and abbreviations**

CEO	Chief Executive Officer of the Department responsible for the administration of the <i>Environmental Protection Act 1986</i>
Clearing Regulations	Environmental Protection (Clearing of Native Vegetation) Regulations 2004
CSLC	Commissioner of Soil and Land Conservation
DBCA	Department of Biodiversity, Conservation and Attractions <sup>1</sup>
DMIRS	Department of Mines, Industry Regulation and Safety <sup>1</sup>
DJTSI	Department of Jobs, Tourism, Science and Innovation <sup>1</sup>
DWER	Department of Water and Environmental Regulation <sup>1</sup>
EPA	Environmental Protection Authority <sup>1</sup>
EP Act	<i>Environmental Protection Act 1986</i>

Note 1: where Department names change as a result of Machinery of Government changes during the term of this Agreement, reference should be made to any relevant Statutory Designations Order or similar published in the Government Gazette.

#### **Definitions**

Unless otherwise indicated terms are defined in Section 3 and Section 51A of the EP Act. The *Interpretation Act 1984* provides further guidance.

#### **Application date**

The date that an application is received by the Department responsible for administering that application.

#### **Bilateral Agreement**

The assessment bilateral agreement entitled '[Bilateral agreement made under section 45 of the Environment Protection and Biodiversity Conservation Act 1999 \(Cth\) relating to environmental assessment](#)', commenced on 1 January 2015, including subsequent revisions.

#### **Decision**

Decision means an application to clear has been granted, given an undertaking to grant, declined, revoked, suspended, surrendered, amended, refused or withdrawn.

#### **Externally-published information**

Documents produced and published by DWER that provide information about clearing native vegetation to applicants and the general public.

### Exempt clearing activities

For the purposes of this administrative agreement, exempt clearing activities are defined as those that are prescribed under regulation 5 of the Clearing Regulations and in Schedule 6 of the EP Act.

### Internally-published information

Documents produced and published by DWER that provide guidance and instruction to staff during the assessment and administration of clearing permit applications.

### Low impact mineral and petroleum activities

For the purposes of this administrative agreement, low impact mineral and petroleum activities are as defined in Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 or as amended by the Governor through regulations under s.51C(c) of the EP Act from time to time.

### Mineral and petroleum activities

For the purposes of this administrative agreement, mineral and petroleum activities are those that are regulated under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982* and clearing subject to a Government agreement administered by the Department of Jobs, Tourism, Science and Innovation as defined in section 2 of the *Government Agreements Act 1979*.

### Stop the clock

In certain circumstances, an application to clear native vegetation may be placed on hold during assessment. The period while the application is on hold (referred to as 'stop the clock') does not count towards DWER's or DMIRS' target timeframes.

DWER and DMIRS will 'stop the clock' for an application when waiting for the applicant to provide additional information in support of their application, pay outstanding application fees or respond to draft decision documents.

In some cases, "stop the clock" will apply where assessment processes and consultation requirements are being undertaken under the *Native Title Act 1993* or where a relevant outcome of an Environmental Protection Authority (EPA) assessment and associated Ministerial decision under Part IV of the EP Act is pending.

DWER and DMIRS will not 'stop the clock' when waiting for requested advice or information from any other government department or agency.

DWER is progressing development of "life of application" reporting, which will illustrate the average time an application is under assessment by DWER, pending information from the proponent and pending outcome from another regulatory process as outlined above. Currently the latter two are reported together.

## 1. Introduction

This document outlines administrative arrangements between the Department of Water and Environmental Regulation (DWER) and the Department of Mines, Industry Regulation and Safety (DMIRS) to support the delegation under s.20 of the *Environmental Protection Act 1986* (EP Act) of certain provisions for clearing of native vegetation under that Act.

The Agreement applies to clearing of native vegetation under s.51C of the EP Act associated with mineral and petroleum activities regulated under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* and the *Petroleum (Submerged Lands) Act 1982* and clearing subject to a Government agreement administered by the Department of Jobs, Tourism, Science and Innovation (DJTSI) as defined in section 2 of the *Government Agreements Act 1979*.

This Agreement does not apply to clearing on Commonwealth lands or in Commonwealth waters.

This Agreement applies to clearing that falls within the scope of the Bilateral Agreement.

The two Departments commit to work cooperatively to ensure that clearing permit applications within the scope of the delegation are assessed efficiently and effectively, with regard to the objects and principles set out in section 4A and Schedule 5 of the *Environmental Protection Act 1986*, so far as they are relevant.

These administrative procedures establish a process for the management of clearing permit applications and for appropriate standards and record keeping that is agreed to by both DWER and DMIRS.

Operations of the clearing provisions of the EP Act in relation to mineral and petroleum activities will be structured to ensure that the native vegetation clearing assessment process is based on:

- Timeliness (that is, assessment needs to be completed within a reasonable period);
- Clarity and consistency of process;
- Openness and transparency;
- Cooperation between agencies;
- Clear and scientifically based criteria (which include a local and bioregional context);
- Accurate and adequate information;
- Clear steps of pre-application, validation, assessment, decision review and instrument management, as well as effective sanctions for acting outside the process (unlawful clearing);
- Capable of covering the broad range of issues involved in clearing; and
- The shortest possible route between the statutory authority and the applicant (i.e. the overall process and its procedures must be clear and readily followed and avoid cumbersome transfers of authority between agencies).

## 2. Administrative Procedures

### 2.1 Application to mineral and petroleum activities

These procedures apply to the administration of the clearing provisions of the EP Act by DMIRS under delegation.

### 2.2 Enquiries

DMIRS will undertake the following in relation to enquiries for applications for clearing permits for mineral and petroleum activities:

- Be point of contact for industry applicants;
- Advise requirements for studies to be carried out by the applicant relating to native vegetation consistent with externally published information;
- Provide advice to applicants based on internally and externally published information; and
- Direct complex enquiries to DWER.

DWER will:

- Prepare externally-published information to assist applicants to understand the requirements of the clearing provisions of the EP Act and their obligations under the process, and prepare internally-published information to guide the assessment of clearing applications;
- Make internally-published information available to DMIRS staff, where relevant;
- Provide advice to applicants and DMIRS for complex issues or matters of legal interpretation; and

- Provide a web-based GIS viewer to assist applicants to identify environmentally sensitive areas under a s.51B declaration, and non-permitted areas under Schedule 1 of the Clearing Regulations.

### 2.3 Permit application (s.51E and s.51Q of the EP Act)

For applications to clear native vegetation under the delegation, DMIRS will:

- Advise applicants to lodge applications in the form and manner prescribed by the Chief Executive Officer (CEO) of DWER under s.51E(1)(a) of EP Act. The ultimate responsibility for completing the application to the requirements of the CEO rests with the applicant;
- Advise applicants of the scope of work for an application for a clearing permit required to address the clearing principles in the EP Act, based on externally-published information;
- Continue to refer to the EPA any clearing permit applications which meet the definition of significant proposals under s.38 of Part IV of the EP Act;
- Determine whether an application is valid under s.51E(1) and (2) of the EP Act. If the application is not a valid application, the delegate must decline to deal with the application and advise the applicant under s.51E(3) of the EP Act;
- Decline to grant a clearing permit on a pending tenement or a tenement for a purpose which is inconsistent with the purpose of the clearing, or where the applicant does not have a right of access under a written law;
- Determine whether any exemption under the Clearing Regulations or Schedule 6 of the EP Act applies based on published information;
- Following receipt of an application, where an exemption appears to exist, advise the applicant in writing that a clearing permit under s.51C of the EP Act may not be required;
- Determine whether the application is related to a proposal for which notification has been given under s.41 by the EPA;
- If the application is related for the purposes of s.51F of the EP Act, advise the applicant in writing;
- Determine whether any instrument under s.51D of the EP Act affects the application;
- Decline to grant a clearing permit for any application which is the subject of an agreement to reserve, unless there is written advice from the Commissioner of Soil and Land Conservation agreeing to the clearing;
- Decline to grant a clearing permit for any application which is the subject of a conservation covenant issued under s.30B(2) of the *Soil and Land Conservation Act 1945*;
- Decline to grant a clearing permit for any application which is the subject of a soil conservation notice unless there is written advice from the Commissioner of Soil and Land Conservation stating that the clearing would not be in contravention of the soil conservation notice;
- If the application is a valid application under s.51E of the EP Act, advise the applicant in writing that the application has been received as required under s.51E(4)(a) of the EP Act;
- Advertise the applications on a regular basis, as required by s.51Q of the EP Act and r.8(2) and r.8(3) of the Clearing Regulations, on DMIRS' website. The advertisement will be consistent with that of DWER and will contain an invitation to interested persons or organisations to make submissions on any of the clearing permit applications within a prescribed period as required under s.51E(4)(c) of the EP Act;
- On behalf of the delegate, invite persons or organisations with direct interest in the clearing permit application to make a submission within a specified time period as required under s.51E(4)(b) of the EP Act;

- Ensure that applications are entered and stored in a clearing permit system database to comply with public records requirements outlined in r.8(1) and r.8(2) of the Clearing Regulations; and
- The date of application in the clearing permit system database shall be the date that the application is initially received and date stamped by DMIRS.

Where an application is received by DMIRS that does not fit within the scope of the delegation, DMIRS shall transfer the application to DWER as soon as possible (and in any case no longer than seven days), and advise the applicant in writing of the transfer and the date this occurred. If payment of the application fee has already occurred, DMIRS will refund the application fee to the applicant with advice that DWER will contact the applicant regarding the application fee.

DWER will:

- Develop and maintain prescribed application forms for use by DMIRS and applicants;
- Consult with DMIRS before any amendment to a prescribed application form;
- Provide DMIRS with access to the clearing permit system database;
- Produce and maintain internally- and externally-published information regarding exemptions to the regulations, assessment of applications, and procedures;
- Publish records of applications stored in the clearing permit system database, as required under s.51Q of the EP Act and r.8(1) of the Clearing Regulations on a website maintained by DWER;
- Make internally-published information available to DMIRS; and
- Consult with DMIRS on proposed changes to internally- and externally-published information.

## 2.4 Amendments under s.51K and s.51M

Section 51K of the EP Act deals with situations where the CEO may amend a clearing permit and s.51M outlines the legal process to be undertaken when making an amendment.

DWER has prepared published information about amending clearing permits. DWER undertakes to consult with DMIRS when revising these documents.

DMIRS shall apply the information in these documents when considering when and how to make amendments to clearing permits.

## 2.5 Assessment

### Assessment Process

DMIRS will:

- Refer applications to the CSLC, DBCA or DWER for advice where required.
- Take into account any submissions made under the s.51E(4)(b) or (c) of the EP Act. The decision reports shall show how any received submission was addressed and to what extent the issues it raised were considered relevant;
- Assess permit applications in accordance with s.51D, s.51O and s.51P of the EP Act and as outlined in internally- and externally-published documents;
- Prepare reports consistent with the relevant decision report template as developed and maintained by DWER; and
- Where an application will be referred by DMIRS to CSLC, DBCA or DWER for advice on the clearing principles, DMIRS will direct the applicant to liaise with those agencies to determine the requirements for documentation to support the application.

### Assessment Criteria

DMIRS shall be consistent with internally- and externally-published documents when deciding whether to grant or refuse a clearing permit application. These documents contain information about interpretation of the clearing principles, which DMIRS must consider in making a decision, consideration of planning instrument, and other relevant considerations, such as those under s.51O and s.51P of the EP Act.

DWER undertakes to develop and maintain internally- and externally-published documents in consultation with DMIRS.

### Offsets

DMIRS shall consider relevant internally and externally published documents to determine whether an offset is appropriate to counterbalance any significant residual impacts of proposed clearing. DMIRS shall ensure that the consideration of and imposition of offset requirements is consistent the most recent version of the WA Offsets Policy, WA Offsets Guidelines and relevant externally- and internally-published documents.

### Duration of Permit

DMIRS may vary the standard period of validity for a permit where there is good reason, noting that the standard period for an area permit is two years and five years for a purpose permit under s.51G of the EP Act.

## 2.6 Decision on Clearing Permit

DMIRS will:

- Have regard to the clearing principles, planning instruments and other relevant matters in making a decision to the extent that they are relevant to the application;
  - not make a decision to grant a permit that:
    - is inconsistent with an environmental protection policy that is approved under s.31(d) of the EP Act; or
    - is seriously at variance with the principles.
- Refer to the CEO any proposed decision where DMIRS recommends granting a clearing permit for an application that is seriously at variance with the clearing principles, with a statement of the good reason why the permit should be granted by the CEO in accordance with s.51O(3) of the EP Act;
- Refer to the CEO any decision to amend a permit if the amendment will cause it to be seriously at variance with the clearing principles;
- Give written notice to the applicant of a decision to refuse or grant a clearing permit as required under s.51E(5) and s.51E(6);
- Advertise clearing permits granted or refused on a regular basis, as required by s.51Q of the EP Act and r.8 of the Clearing Regulations, on DMIRS' website;
- Ensure that details of clearing permits, as required under r.8(1)(b) of the Clearing Regulations, are maintained in the clearing permit system database and are publicly available through a website nominated and maintained by DWER; and
- Ensure that granted permits that contain environmental offset conditions are placed on the publicly available Government of Western Australia Environmental Offsets Register.

## 2.7 Clearing Conditions

Subject to s.51H of the EP Act, DMIRS may grant a clearing permit subject to conditions.

DWER will maintain a library of standard conditions and make this accessible to DMIRS. DWER will consult with DMIRS on proposed new or modified conditions and DMIRS may recommend to DWER additional or modified conditions for inclusion in the library. DWER will review any conditions recommended by DMIRS for inclusion in the library for legality,

enforceability and consistency and will consider aspects before determining whether to add the condition to the library.

In limited circumstances, DMIRS may apply a non-standard condition on a clearing permit where this is warranted to address site specific environmental risks and a standard condition contained within the library would not be sufficient for managing this risk. Where DMIRS applies a non-standard condition, this condition shall be referred to DWER for inclusion in the library.

### 2.8 Appeals

Decisions relating to clearing permits are subject to appeal rights in accordance with the EP Act. Appeals are made to the Minister for Environment. The Office of the Appeals Convenor manages appeals lodged in respect of decisions on applications made under the delegation. The Appeals Convenor's office has prepared guidelines for dealing with appeals on clearing permits, a copy of which is available at the Appeals Convenor website.

DMIRS will:

- Support the Appeals Convenor by providing any relevant information it holds in respect of such an appeal;
- Prepare a report to the Minister for Environment under s.107 of the EP Act in the manner and within such a period as required by the Appeals Convenor's office;
- Support an appeal committee established under s.108 of the EP Act when consulted under s.109;
- Cause to be implemented each and any decision to the Minister under s.107(2) or s.109(3) of the EP Act on an appeal as soon as practicable. Implementation of appeals under s.51K of the EP Act shall be undertaken following the procedure in s.51M of the EP Act; and
- Ensure that the clearing permit system database is updated to reflect the outcomes of appeal decisions (including completing the "Appeals/Objections" tab).

### 2.9 Timeframes

There are no specifications within the EP Act or regulations for timeframes within which clearing permit applications must be determined. Timeframes exist in respect of periods in which appeals may be lodged after a clearing permit application is determined, but not for the Minister's decision on any appeal.

DWER has published a target timeframe of 80 per cent of applications to be decided within 60 days of receipt.

The time taken to assess an application to clear will vary from case to case and will largely depend on the complexity of the environmental issues associated with the application, and whether further information has been provided or is required from the applicant. Where a preliminary assessment indicates that significant issues may arise which have not been adequately addressed by information provided with the application, the delegate will request this information in writing. Such a request from the delegate will 'Stop the clock' and the periods until this information is provided shall not be included in any calculation of the overall timeframe.

It is expected that DMIRS will also comply with the 60 day target, and publicly report on its performance against this target quarterly on its website.

More information on timeframes, including target timeframes for each stage of assessment, is available in DWER's externally published information.

## 2.10 Reporting

DWER and DMIRS will review the effectiveness of the administrative arrangements of this Agreement by keeping a public record on an annual basis of:

- The number of clearing permit applications received by purpose, location and extent (in hectares);
- Number of applications for a clearing permit that are granted, amended, refused, withdrawn or declined;
- Time taken for a decision on permit applications (excluding the period which satisfies the “stop the clock” criteria);
- Number of appeals (through the Office of the Appeals Convenor);
- Number of surrendered, suspended, revoked or expired permits;
- Number of complaints relating to alleged illegal clearing; and
- Number of incidents where enforcement action is taken.

DWER and DMIRS will each publish this record independently but in a consistent manner as agreed.

DWER and DMIRS will continue to investigate and implement opportunities to capture and publish data relating to exempt clearing activities, including those authorized under legislation administered by DMIRS. DWER and DMIRS will collaborate through the inter-agency meetings to identify options for improving data collection and implementing practicable solutions.

## 2.11 Audit

DWER will undertake audits during the period of this agreement, of DMIRS’ performance of the functions delegated to it by the CEO of DWER. The audit program will be in accordance with published information on the conduct of audits and will consider the following principles:

- Compliance with the EP Act;
- Compliance with the terms and conditions of the current delegation notice;
- Conformance with this administrative agreement;
- Performance of DMIRS in administering the delegation, including:
  - Decision-making consistency
  - Minimisation of liability and risk
  - Equivalence of service to public
  - Timeliness of service
- Level of compliance of clearing decisions made under the delegation; and
- Collection and maintenance of records relating to exempt clearing, once the data capture mechanism is identified and implemented.

The frequency of audits will be agreed at interagency meetings. At least one audit will be undertaken during the term of the Agreement. DWER may use an external auditor or use internal resources where they exist.

Depending on the outcome of the audit, DWER may recommend modifications to internally or externally-published guidance, to the administrative agreement or to the delegations.

The results of the audit will be shared cooperatively with DMIRS to improve performance in the form of a report detailing issues and required actions to rectify these.

## 2.12 Compliance and Enforcement

The CEO will appoint officers who are responsible for the enforcement of the clearing provisions delegated to DMIRS as inspectors under s.87 of the EP Act as agreed between the CEO and the delegate.

DWER will ensure that before appointment, the DMIRS officers receive appropriate training to allow them to exercise power under Part VI of the EP Act.

DMIRS will immediately report any incidents of alleged unlawful clearing to DWER. All incidents will be recorded by DWER in the department's database used for compliance and enforcement activities.

DMIRS will develop a compliance program, at least annually, to determine compliance with the clearing provisions of the EP Act in respect of clearing authorized by DMIRS under delegation. DMIRS will undertake compliance activities as provided for in the compliance program and keep records of the outcome.

DWER will provide advice to DMIRS to inform the compliance program, if required.

DMIRS will ensure that investigations of alleged unlawful clearing are carried out in accordance with DWER's internally-published documents and are reported to DWER.

DWER will ensure the appropriate action consistent with its Enforcement and Prosecution Policy is undertaken and the outcomes are reported to DMIRS.

Where DWER intends to prosecute unlawful clearing for an activity under the delegation administered by DMIRS, it will notify the DMIRS prior to taking any action.

DWER and DMIRS will work cooperatively in relation to any compliance and enforcement actions.

## 2.13 Policy, Guidelines and Procedures

DWER may, from time to time, prepare internally- and externally-published information on matters relevant to clearing of native vegetation. In so doing, DWER will:

- Consult with DMIRS and other relevant agencies in preparing such information as appropriate;
- Provide DMIRS with an opportunity to comment on any relevant draft;
- Take comments received into account when preparing final versions; and
- Have regard to DWER's Policy Framework for legislation, policy, guidelines and procedures.

DMIRS may suggest any issues where new published information is believed to be required. DWER retains discretion on whether to prepare or amend published information.

In addition, DMIRS shall endeavour to:

- Give comments on drafts provided by DWER; and
- Act consistently with any published information prepared by DWER in dealing with native vegetation clearing matters.

Reference is made throughout this administrative agreement to internally- and externally-published information. These references are intended to include all policy, guidelines and procedures prepared by DWER consistent with the Policy Framework which are current and in-force at the time of DMIRS carrying out a delegated function.

## 2.14 Involvement of DBCA and CSLC and DWER

### Assessment

DMIRS shall refer clearing applications to DBCA, CSLC and DWER in accordance with the criteria contained in internally- and externally-published information.

In assessing a clearing permit application, DMIRS will request expert advice from DWER in cases where the clearing appears likely to be seriously at variance with the clearing principles, from DBCA in regard to (a), (b) (c), (d), (f) and (h), from CSLC in respect of principle (g) and from DWER in respect of principle (i).

In requesting advice from DBCA, CSLC and DWER, DMIRS will request that the respondent:

- Prepares a written response to applications for a clearing permit referred by DMIRS;
- Responds in electronic format and within 28 days of referral by DMIRS;
- Includes maps, aerial photos and satellite imagery where appropriate in the report, as well as photographs of the area and its native vegetation taken as part of any field assessment; and
- Outlines the extent and limitations of analyses and surveys.

### Inter-agency meetings

DMIRS may convene inter-agency meetings with DWER, CSLC and DBCA to discuss clearing applications and to review the process for requesting expert advice from time to time.

Meetings will be held as required.

### Negotiations with clearing permit applicant

- DWER may not negotiate an agreement with the applicant on behalf of DMIRS;
- DWER may not represent DMIRS; and
- DBCA, CSLC and DWER cannot suggest a decision on behalf of DMIRS.

### Advice may be disregarded

DMIRS is not bound by advice except where DWER provides formal advice that the application is seriously at variance with any clearing principles.

### Sharing of data and resources

DMIRS and DWER shall endeavor to act cooperatively at all times in the use of data and resources related to the protection of native vegetation. DWER agrees that DMIRS may use the data supplied to it, in house, for any legitimate governmental use and purpose related to the regulation of native vegetation clearing.

### Confidentiality

DWER may not disclose details of clearing permit applications administered by DMIRS under delegation other than those publicly available to third parties.

DMIRS may not disclose details of clearing permit applications not the subject of the delegation other than those publicly available to third parties.

### **3. Management of the Delegation and Administrative Agreement**

#### **3.1 Delegation**

The delegations under s.20 of the EP Act may be varied or discontinued by the CEO after consultation with DMIRS. The delegation shall be subject to ongoing review and may be varied, subject to such amendments as agreed by the parties from time to time.

#### **3.2 Review of the Administrative Agreement**

This agreement may be reviewed from time to time with the agreement of both DWER and DMIRS. In any case, it must be reviewed no less that every three years.

#### **3.3 Term of the Administrative Agreement**

This agreement will operate until it is mutually agreed between DWER and DMIRS that the agreement should be terminated, or the CEO revokes the delegation.

#### **3.4 Training**

DWER shall prepare and implement a training program to address needs identified during audits or by DMIRS and DWER from time to time.

DWER and DMIRS shall maintain registers recording attendance at training sessions by assessing and delegated officers.

#### **3.5 Oversight of the delegation and administrative agreement**

It is recognised that in order to achieve the anticipated outcomes and objectives of the delegation and administrative arrangements, ongoing oversight by DWER and DMIRS is necessary. Mechanisms to achieve this include a regular audit (see section 2.11) and regular meetings between agencies.

Interagency workshops will generally be held twice a year, follow a set agenda and with outcomes and actions captured clearly for both DWER and DMIRS. Interagency meetings will generally be held on a monthly basis. The frequency of interagency meetings may be varied by agreement.

**Schedule 6****Administrative Agreement between Department of Mines, Industry Regulation and Safety and Department of Water and Environmental Regulation for Onshore Petroleum and Geothermal Activities in Western Australia****1. Procedural Arrangements for Petroleum Acreage/Titles**

DMIRS releases petroleum acreage titles for competitive bidding on a biannual basis. Part of the release package includes information on applying for acreage, land access, basin geology and relevant available data.

This Agreement will establish procedural arrangements such that information relevant to the protection of water resources is included in the package of information released by DMIRS.

**Relevant legislation**

*Petroleum and Geothermal Energy Resources Act 1967*

Collaboration relating to petroleum acreage/titles

- The principal points of contact between DMIRS and DWER relating to petroleum acreage/titles are:
  - Executive Director Resource and Environmental Compliance (DMIRS)
  - Director Regions (DWER).
- Prior to releasing petroleum acreage titles for competitive bidding, or issuing special prospecting authority with acreage option, DMIRS will seek advice from DWER regarding whether:
  - DWER recommends that any specific information should be included in the release information package; and/or
  - there are any matters that DMIRS should consider in its decisions regarding the release of acreage/titles.
- DWER will provide responses to DMIRS within 20 calendar days.
- DMIRS will identify on the public release, any known sensitive water resources as notified by DWER in special notices within the acreage release package (for exploration permits or drilling reservations). For 'special prospecting authority with acreage option' the known sensitive water resources will be identified in the letter of offer back to the title applicant.

**2. Administrative Arrangements for Onshore Petroleum and Geothermal Activities**

This Agreement establishes arrangements such that DWER is notified of proposed activities within identified sensitive water areas and that DWER is able to provide expert advice related to the protection of water resources for relevant Environment Plans as part of the assessment process.

These collaboration arrangements are in addition to the formal referral between the Minister for Mines and Petroleum and the Minister for Water of proposed activity on land vested with the Water Resources Ministerial Body or the Minister for Water under the *Land Administration Act 1997*, or the *Metropolitan Water Supply Sewerage and Drainage Act 1909*, as guided by Section 15A of the *Petroleum and Geothermal Energy Resources Act 1967*.

### **Collaboration relating to Environment Plans within a public drinking water source area<sup>1</sup> or within five kilometres of a public drinking water bore**

Where an Environment Plan is received by DMIRS and proposes petroleum activities within a public drinking water source area or when DMIRS is informed of activities within five kilometres of a public drinking water source area water bore or aboriginal community drinking water bore:

DMIRS will:

- provide DWER with access to the Environment Plan;
- request that DWER provide advice on the proposal that must be considered by DMIRS; and
- not approve the Environment Plan until advice is received from DWER, or, if no advice is provided, more than 20 calendar days have elapsed since DWER was provided access to the Environment Plan.

DWER (guided by the Australian Drinking Water Guidelines, National Health and Medical Research Council 2015) will:

- provide advice to DMIRS within 20 calendar days.

The principal points of contact between DMIRS and DWER relating to Environment Plans are:

Executive Director Resource and Environmental Compliance (DMIRS)  
Director Regions (DWER).

### **3. Notifications**

Once activities are approved by DMIRS, petroleum operators are required under the regulations to notify reportable incidents to DMIRS. In addition, petroleum operators are required to notify DMIRS of a water discovery.

This Administrative Agreement provides for the sharing of information relating to the above matters.

#### **Relevant legislation**

*Petroleum and Geothermal Energy Resources Act 1967*

#### **Collaboration relating to reportable incident and water discovery notifications**

- DMIRS will advise DWER when it is notified of any reportable incident that occurs in a public drinking water source area.
- DMIRS will advise DWER where a petroleum operator notifies DMIRS of a water discovery in accordance with section 113 of the *Petroleum and Geothermal Energy Resources Act 1967*.
- The principal points of contact between DMIRS and DWER relating to notification of reportable incidents are:

Executive Director Resource and Environmental Compliance (DMIRS)  
Director Regions (DWER).

- The principal points of contact between DMIRS and DWER relating to water discoveries are:

Executive Director Resource and Environmental Compliance (DMIRS)  
Director Regions (DWER).

<sup>1</sup> Public drinking water source area (PDWSA) is the collective name given to any area proclaimed under legislation for the management and protection of a water source used for public drinking water supplies. They may be catchment areas, water reserves or underground water pollution control areas (pollution areas) proclaimed under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* and the *Country Areas Water Supply Act 1947*.

## Attachment 1: Additional trial arrangements for onshore petroleum and geothermal activities

Following the grant of petroleum titles, DMIRS receives and assesses a range of applications to undertake petroleum and geothermal activities. These applications consider the potential effects upon the environment, including water resources.

These trial arrangements for proactively engaging with the DWER are in addition to the formal referral requirements between the Minister for Mines and Petroleum and the Minister for Water of proposed activity on land vested with the Water Resources Ministerial Body or the Minister for Water under the *Land Administration Act 1997*, or the *Metropolitan Water Supply Sewerage and Drainage Act 1909*, as guided by Section 15A of the *Petroleum and Geothermal Energy Resources Act 1967*.

### Relevant legislation

*Petroleum and Geothermal Energy Resources Act 1967*

### Relevant Applications

- Drilling Programs (or Well Management Plans<sup>2</sup>)
- Resource Development Plans
- Field Management Plan (or Field Development Programs<sup>3</sup>)
- Well Intervention Plans
- Hydraulic Fracturing Plans
- Field Abandonment Plans

### Collaboration relating to Relevant Applications within a Public Drinking Water Source Area

Where a relevant application is received by DMIRS and proposes petroleum activities within a Public Drinking Water Resource Protection Area:

DMIRS will:

- provide DWER with access to the relevant application;
- request that DWER provide any advice relating to the protection of water resources related to the proposal that should be considered in the assessment of the relevant application; and
- not approve the relevant application until advice is received from DWER, or more than 20 calendar days have elapsed since DWER was provided access to the relevant application.

DWER will provide advice to DMIRS within 20 calendar days.

<sup>2</sup> Applications will be renamed through the adoption of the Petroleum and Geothermal Energy Resources (Resource Management and Administration) Regulations 2015.

<sup>3</sup> Applications will be renamed through the adoption of the Petroleum and Geothermal Energy Resources (Resource Management and Administration) Regulations 2015.

## Administrative Agreement between Department of Mines, Industry Regulation and Safety and Department of Water and Environmental Regulation for Mineral Exploration and Mining Operations in Water Resource Areas of Western Australia

### Consultation under reserved land provisions of *Mining Act 1978*

Any mining tenement which encroaches onto water resource management areas reserved under Part 4 of the *Land Administration Act 1997* and vested with DWER, or reserved under water legislation as specified in Part III, Division 2 of the *Mining Act 1978*, will attract the provisions of Part III, Division 2 of the *Mining Act 1978*.

This Division allows for mining tenement applications to be applied for over reserved land, but no mining operations can be carried out on or under such land unless the Minister responsible for the *Mining Act 1978* (Minister for Mines and Petroleum) has given prior consent. Before giving consent the Minister for Mines and Petroleum must consult with the responsible Minister and other persons vested with the control and management of such land (in this case the Minister for Water/Department of Water and Environmental Regulation) and obtain their recommendation.

It is acknowledged that not all mining tenements that encroach on water reserves require referral to the Minister for Water prior to consent for exploration activities or mining operations being provided by the Minister for Mines and Petroleum.

As agreed and approved by the Directors General, consultation for mining referrals including tenement applications applied for over reserved land should occur in accordance with the Agreement. The administrative arrangements and protocols contained in the Agreement ensure that consultation between the two agencies will occur where water resources may be impacted, and at the appropriate time when all relevant information for assessment is available in respect to the exploration or mining activities proposed by the proponent.

It is important to note that although mining consent may be provided no ground disturbance using mechanical equipment is allowed to proceed until a PoW or MP has been approved by DMIRS.

In accordance with the protocols set out in Table 1 of this Agreement, DWER will have the opportunity to comment on PoW, MP and MCP which:

- relate to those WRM areas specified in Table 1 where DMIRS “must seek DWER advice”, or
- relate to other WRM areas where DMIRS consider, based on a risk assessment as specified in section 7, that the water resource is likely to be negatively impacted.

## 1. Procedural arrangements and protocols

This section explains the documentation related to mining activity, and sets out the administrative arrangements and protocols which are to be applied on the grant of a mining tenement, and on the assessment and approval of a PoW, MP or MCP over a WRM area. This section is to be read in association with Table 1, and sections 7 and 12.

Mining related documentation

The stages of mining activity, and the related documentation and processes referred to in this Agreement, are summarised below:

- Where a proponent applies for a prospecting, exploration, retention or miscellaneous licence or a mining or general purpose lease, DMIRS’s Mineral Titles Division (MTD) will progress the mining tenement (mining tenure) application to grant. DMIRS MTD will, at or after the time of grant, apply endorsements and impose conditions to draw the tenement holder’s attention to the requirements and obligations of DWER legislation and the *Mining Act 1978*.

- Where a tenement holder seeks an amendment or variation to existing tenement endorsements/conditions, the Minister for Mines and Petroleum has powers under the *Mining Act 1978* to add, vary or delete endorsements/ conditions.
- Where a tenement holder/operator wishes to undertake mineral exploration activities using mechanised equipment that involves surface disturbance, they must lodge a PoW and obtain the prior written approval of DMIRS's Environment Division (ED).
- Where a tenement holder/operator wishes to undertake mining operations they must lodge a MP and obtain the prior written approval of DMIRS's ED.
- Where a tenement holder/operator wishes to modify an approved MP they must lodge an amendment to the MP and obtain the prior written approval of DMIRS's ED.
- Where a tenement holder/operator wishes to commence a new mining project, or undertake a significant expansion or alteration of an existing mining project, they must also submit a Mine Closure Plan (MCP) at the same time as they lodge the associated MP, and obtain the prior written approval of DMIRS's ED. Regular revisions of the MCP must also be submitted at time periods dictated by tenement conditions (generally every three years). DMIRS has produced a guideline, in conjunction with the Environmental Protection Authority on MCP requirements entitled '*Guidelines for Preparing Mine Closure Plans*'.

### Key protocols of this Agreement

When imposing endorsements/conditions upon tenements, and/or assessing a PoW, MP, amendment to MP, or MCP, DMIRS is obligated to take action in accordance with the arrangements and protocols set out in Table 1, explained in detail as follows. DMIRS will:

- a. Impose agreed standard endorsements/conditions upon the grant of tenements over WRM areas as listed in the Schedules in Section 12.

Note: The new standard condition in Schedule 2.3 will establish a conditional consent to mine being granted in respect to:

- Catchment Area that contains a Reservoir Protection Zone (RPZ), or
- an Underground Water Pollution Control Area or Water Reserve that contains a Wellhead Protection Zone (WPZ),

which prevents mining on the RPZ or WPZ, without first obtaining the prior written consent of the Minister for Mines and Petroleum. Such consent will not be given until DMIRS (as delegate for the Minister) has consulted directly with the DWER/Minister for Water in respect to the tenement holder's proposed activities on a RPZ or WPZ (see sections 12 and 13 for further information about this condition).

- b. Consult with DWER before any decision is made to vary endorsements on a tenement.
- c. Notify DWER (for information only) when:
  - tenements have been granted, and/or
  - PoW applications have been approved (unless DMIRS has already sought DWER advice regarding the PoW), within any 'Other Reserves' administered by DWER through vesting or management order.
- d. For Reserve 31165:
  - Notify DWER and the Chair of the Joint Management Committee (c/o Miriuwung Gajerrong Corporation) (JMC) when tenements have been granted.
  - Seek advice from DWER and the Chair of the JMC in all cases where a PoW, MP, MCP and/or amendment is proposed.
  - Notify DWER and the Chair of the JMC when PoW, MP, MCP and/or amendment applications have been approved.

- e. Seek advice from DWER:
  - i. In all cases where a PoW is proposed within a 'Primary' WRM Area (Public Drinking Water Source Area (PDWSA), Clearing Control Catchment (CCC), High Value Waterway area or Waterway Management Area).
  - ii. Where a PoW is likely to have a negative impact (refer to Section 7 and Appendix 1) on a 'Secondary' WRM area, or 'Other Reserve' administered by DWER.
  - iii. In all cases where an MP and/or MCP is proposed within a 'Primary' WRM area or 'Other Reserve' administered by DWER.
  - iv. Where an MP and/or MCP is likely to have a negative impact on a 'Secondary' WRM area.
  - v. In all cases where an amendment to a MP or a revision of a MCP is proposed within a PDWSA, CCC or 'Other Reserve' administered by DWER.
  - vi. Where an amendment to a MP or a revision of a MCP is likely to have a negative impact on a Waterway Management Area, High Value Waterway area or 'Secondary' WRM area.

For ii, iv and vi above, the DMIRS ED needs to determine whether a proposed activity is likely to have a negative impact on a WRM area, and thereby make a decision on whether to seek DWER advice. Section 7 provides guidance for DMIRS ED in these circumstances. A list of common exploration and mining activities which may have a negative impact is also provided in Appendix 1. Where the DMIRS ED is still uncertain whether an activity is likely to have a negative impact on a WRM area, DMIRS ED will liaise with DWER.

Where DMIRS identifies that an application (PoW, MP, MCP) is unacceptable and intends to reject the proposal, requirements to refer the application to DWER as laid out in this agreement will not apply.

Table 1: Matrix of protocols and schedules of endorsements for mining tenements and activities occurring in Water Resource Management (WRM) areas

Department of Mines and Petroleum (DMIRS) detail of tenement types and activity affected		Department of Water (DWER) – Water Resource Management (WRM) areas									
		Primary WRM areas					Secondary WRM areas				
		Public Drinking Water Source Areas (PDWSA):	Clearing Control Catchments (CAWS Act and Country Areas Water Supply (Clearing Licence) Regulations 1981)	High value waterways Areas:	Waterway Management Areas (Waterways Conservation Act 1976 and Waterways Conservation Regulations 1981)	Other waterways (excludes "High value waterways" and "Waterway Management Areas")	Artesian (confined) Aquifers and Wells (Rights in Water and Irrigation Act 1914 and RIWI Act and Regs)	Proclaimed Surface Water Areas, Irrigation Districts and Rivers (RIWI Act and Regs)	Proclaimed Groundwater Areas (RIWI Act and Regs)	Reserves in DWER estate administered by DWER through vesting or management order. (Land Administration Act 1997)	Reserve 31165 Joint vestees: DWER and Miriuwung Gajerrong Corporation
		Water reserves and Catchment areas (Metropolitan Water Supply, Sewerage and Drainage Act 1909 (MWSSD Act), and Country Areas Water Supply Act 1947 (CAWS Act) and associated by-laws.	Underground water pollution control areas (MWSSD Act).	Within a Wild Rivers Catchment. In and around Ramsar or DIWA wetlands intersected by waterways.							
		Reservoir protection zones and Wellhead protection zones									
		P1, P2 and P3 PDWSA + Future PDWSA reserves (priority not yet assigned)									
<b>DMIRS Mineral Titles Division will apply standard endorsements/conditions to granted tenements in accordance with the schedules listed in Section 12 and the protocols shown below:</b>											
<b>Granting of licences</b>	Schedules 1 and 2.1 and 2.3	Schedules 1 and 2.1	Schedules 1 and 3.1	Schedule 1	Schedules 1 and 4.1	Schedule 1	Schedules 1 and 7.1	Schedules 1 and 6.1	Schedule 1	Schedules 1 and 8	After grant notify both DWER, and Chair of Joint Management Committee c/o Miriuwung Gajerrong Corporation (JMC)
- Prospecting licences (P)											
- Exploration licences (E)											
- Retention licences (R)											
- Miscellaneous licences (L)											
<b>Granting of leases</b>	Schedules 1 and 2.2 and 2.3	Schedules 1 and 2.2	Schedules 1 and 3.2	Schedule 1	Schedule 1	Schedule 1	Schedules 1 and 7.1	Schedules 1 and 6.2	Schedule 1	Schedules 1 and 8	After grant notify DWER, and Chair of JMC
- Mining leases (M)											
- General purpose leases (G)											
<b>DMIRS Environment Division (ED) will seek DWER advice in accordance with the protocols shown below:</b>											
<b>Approval of Programme of Work (PoW)</b>	ED must seek DWER advice										ED must seek advice from DWER and Chair of JMC. After approval of PoW notify DWER and Chair of JMC.
- (a PoW can apply to all tenement types P,E,R,L, M and G)											
<b>Approval of Mining Proposals (MP) and Mine Closure Plans (MCP)</b>	ED must seek DWER advice										ED must seek advice from DWER and Chair of JMC. After approval of MP and MCP, notify DWER and Chair of JMC.
- (MP and MCP only applies to M, G and L)											
<b>Amendments to MP and MCP revisions</b>	ED must seek DWER advice										ED must seek advice from DWER and Chair of JMC. After approval of MP or MCP amendment, notify DWER and Chair of JMC.

## 2. Procedural arrangements for existing titles and operations

This Agreement applies to all future grants and approvals of mining tenement applications, PoW, MP and MCP that affect a WRM area as detailed in Table 1. Any decision made prior to the signed date of this Agreement remains in effect unless amended by DMIRS. DMIRS will, when reviewing existing titles and operations, seek DWER advice or apply tenement endorsements/conditions as listed in this Agreement, where appropriate.

For example, where a tenement holder requests the amendment or variation to tenement endorsements/conditions (imposed as a result of the grant of the mining tenement, or of an existing PoW, MP and MCP, approved prior to this revised Agreement being implemented), DMIRS will assess and may approve the amendment or variation (e.g. replace the existing endorsements/ conditions with the new standard endorsements/ conditions listed in this Agreement). Where the ED undertakes an inspection of an existing mining operation and as a result of that inspection, seeks to modify or add new endorsements/conditions that are relevant to a WRM then it will do so in accordance with this Agreement. The ED may also seek advice from the DWER in that process where appropriate.

In summary, endorsements/conditions imposed on mining titles and operations under previous administrative agreements may be amended by the Minister for Mines and Petroleum under powers contained in sections 46A, 63AA, 70I, 84, 90 and 92 of the *Mining Act 1978*. However, these will only be amended on a case by case basis (after seeking advice from DWER where appropriate).

## 3. Interagency consultation processes and timeframes

In accordance with this Agreement, DWER will aim to provide timely advice when consulted by DMIRS on how the tenement holder/ operator can ensure that their proposed activities comply with principles for ensuring conservation and protection of WRM areas.

When DMIRS ED seeks advice from the relevant DWER regional office on a PoW, MP or MCP in accordance with the protocols set out in Table 1, the ED will indicate which WRM areas have triggered the request for advice, and any particular mining related activities which DMIRS consider may have a negative impact on the WRM area. The ED must provide sufficient information to enable DWER to assess and respond in the timeframes set out below:

- Where DMIRS requests advice, DWER will aim to provide its advice to DMIRS within 20 working days from the date of DMIRS's request. The commencement date of the request for advice, and the date of the provision of advice, is the date of the electronic communication.
- If no advice is received within 20 working days, DMIRS will issue only one reminder giving DWER a further five working days (from the date of DMIRS's reminder) to provide its advice.
- If after the expiry of this reminder period no advice from DWER has been received, DMIRS will use its best judgement to decide whether or not to approve the PoW, MP or MCP. DMIRS shall then notify DWER of the PoW, MP or MCP approval.
- Where DWER considers that insufficient information is available to assess an application and that additional information is required, DWER will notify DMIRS within 20 working days. DMIRS will be responsible for requesting this information from the proponent where they consider this is required to undertake the assessment of the application. The clock will be stopped from the date that DWER requests information from DMIRS until the date that the information is provided to DWER. DWER will then aim to provide its advice to DMIRS within 10 working days from the date of receipt of the required information, plus any additional time which remains on the clock (i.e. 10 additional days to the original 20 working day timeframe).

Formal requests for and provision of advice, reminders and notifications listed above will be via electronic communication.

DMIRS and DWER officers should liaise to clarify and resolve any issues relating to the provision and application of DWER advice, or any other matter related to this Agreement. If issues remain unresolved, managers of the relevant areas of DMIRS and DWER will discuss the matter. Where necessary, unresolved matters will be referred to relevant directors in each department.

On occasion, DWER will have previously provided advice to the OEPA on a proposal being assessed under Part IV of the *Environmental Protection Act 1986*. When seeking advice from DWER, DMIRS will indicate whether the proposal has already been the subject of EPA assessment, and will enquire whether DWER wishes to provide additional or amended advice.

Once DMIRS have completed their assessments, they will provide feedback to DWER on the final outcomes achieved as a result of the advice received from DWER.

#### **4. Determination of effect on water resources**

Some of the protocols listed in Section 4 (and shown on Table 1) give DMIRS ED discretion to decide whether to seek DWER advice, based upon DMIRS's determination of the likely impact of a PoW, MP or MCP on WRM areas, if implemented. In these circumstances, to assist in making decisions about the likely negative impact of a PoW, MP or MCP, and therefore whether to seek DWER advice, DMIRS will apply a risk-based approach, and consider:

- the capacity of the DMIRS regulatory process to deliver an agreed outcome where there would be no residual effects that would have negative impacts on WRM areas
- the list of common exploration and mining related activities (provided in Appendix 1) which may have a negative impact on a WRM area. Appendix 1 is to be read in conjunction with the 'significance test' of factors listed below.

The following are general factors for determining the potential significance/negative impact on water resources of a proposal;

- character of receiving water resource
- magnitude, extent and duration of anticipated impact
- resilience of the water resource and its ability to cope with change
- confidence of prediction of change
- existence of water resource values, policies, guidelines and standards against which a proposal can be assessed.

Further guidance to determine significant or negative impacts on water resources may be obtained from the *Western Australian Water in Mining Guideline* ([www.water.wa.gov.au/PublicationStore/105195.pdf](http://www.water.wa.gov.au/PublicationStore/105195.pdf)). This sets out a whole of government approach to manage mining activities that have the potential to impact water resources.

Where the DMIRS ED is still uncertain whether an activity is likely to have a negative impact on a WRM area, DMIRS ED will liaise with DWER to determine whether a formal request for advice should be sent. Liaison should ideally be initiated by telephone, and any resulting decision to not send a formal request for advice should be confirmed and recorded in writing. During this liaison process the application itself does not need to be provided however DMIRS ED will, at a minimum, provide the following information to DWER:

- Company name (tenement holder and operator if relevant)
- Tenement numbers
- A brief description of the proposed activities and relevant site history;
- Extent of proposed clearing/disturbance

- Specific detail regarding aspects of the proposed activities which may have an impact on WRM areas.

DMIRS may also seek to liaise with DWER in regard to proposals which are not considered likely to have a significant negative impact on water resources, but for which there may be a high level of public interest in water resource issues associated with the proposal.

### **5. Development of minor administrative procedures**

There is latitude under this agreement for minor administrative procedures to be developed and implemented between DWER and DMIRS that will deliver improvements in the operation of this Agreement. For example, the development of templates for seeking or providing advice.

All such procedures shall be in writing and agreed to by both DWER and DMIRS at appropriate manager level. The procedures should be made readily available to appropriate DWER and DMIRS officers with regular monitoring undertaken to ensure that the procedures are being adhered to and continue to be relevant.

Before the introduction of any new procedure or change to an existing procedure, DWER and DMIRS will consult with each other and reach agreement in writing. If the new/amended procedure is to be introduced, the consultation process should include assessing its benefits and efficiencies, and defining the process details and management requirements.

### **6. Information exchange**

DMIRS and DWER agree to:

- Exchange up-to-date information, including spatial data, to assist with decision-making matters that relate to this agreement. DWER will provide and update DMIRS with complete spatial data sets in respect to all managed water resource management (WRM) areas that are to be the subject of this Agreement (see Appendix 3).
- Ensure the exchange of information and documentation occurs in a timely manner as detailed in Section 6. Formal requests from DMIRS for advice from DWER on a PoW, MP or MCP, and provision of advice from DWER to DMIRS, must be provided electronically, although prior informal discussion should be undertaken where required. Notifications to DWER to advise of granted tenements or approval of PoW, MP and/or MCP applications within Other Reserves administered by DWER, will be provided electronically.
- Develop templates where appropriate to provide clarity and efficiency when requesting and exchanging information in accordance with arrangements and protocols detailed in this Agreement.
- Ensure consultation and collaboration occurs for new and proposed changes to relevant policies, guidelines and standards that relate to this Agreement.

### **7. Commitment to inform**

Both DWER and DMIRS will, where considered appropriate, report to the other where any of their respective officers, in the course of their duties, becomes aware of any suspected unauthorised activity (not authorised under relevant legislation listed in Appendix 3), being carried out within mining tenements in WRM areas.

Following such a report, both departments shall liaise with each other to determine if further investigation is required and to keep each other informed where further action is taken. Upon completion of this action each department is to report back to the other in writing on the outcome of the action taken.

## 8. Review of administrative agreement

The principal points of contact between DMIRS and DWER relating to this Agreement are:

- Executive Director – Resource and Environmental Compliance (DMIRS)
- Executive Director – Regional Delivery and Regulation (DWER)

DWER and DMIRS agree that a review of this Agreement should be undertaken on a regular basis, at least once every five years to ensure the currency and relevance. A review of the Agreement may be undertaken at any time where both departments agree that a review is necessary. Minor textual amendments to the Agreement (not involving changes to the protocols in Table 1) may also be implemented, with the signed approval of both Directors General, without seeking a complete review or revision of the Agreement.

## 9. Schedules of standard endorsements and conditions

When DMIRS grant a tenement through a prospecting, exploration, retention or miscellaneous licence or a mining or general purpose lease, DMIRS will apply the standard endorsements/conditions detailed below, in accordance with the protocols set out in Table 1.

Note:

The condition set out in Schedule 2.3 regarding conditional consent in Reservoir Protection Zones and Wellhead Protection Zones notifies that the tenement holder cannot undertake any mining activity in a protection zone unless the consent of the Minister for Mines and Petroleum is obtained, in accordance with Section 23 (2) of the *Mining Act 1978*. The remainder of the schedules below are standard endorsements (not conditions) applied by DMIRS to the tenement, to draw the tenement holder's attention to the requirements and obligations of DWER legislation.

### Schedule 1: General endorsements to be applied on the grant of mining tenements which affect any WRM area referred to in Table 1.

1. Compliance with the:
  - *Waterways Conservation Act 1976*
  - *Rights in Water and Irrigation Act 1914*
  - *Metropolitan Water Supply, Sewerage and Drainage Act 1909*
  - *Country Areas Water Supply Act 1947*
  - *Water Agencies (Powers) Act 1984*
2. The rights of ingress to and egress from, and to cross over and through, the mining tenement, being at all reasonable times preserved to officers of Department of Water and Environmental Regulation for inspection and investigation purposes.
3. The storage and disposal of petroleum hydrocarbons, chemicals and potentially hazardous substances being in accordance with the current published version of the Department of Water and Environmental Regulation's relevant Water Quality Protection Notes and Guidelines for mining and mineral processing.
4. Measures such as drainage controls and stormwater retention facilities are to be implemented to minimise erosion and sedimentation of adjacent areas, receiving catchments and waterways.
5. All activities to be undertaken so as to avoid or minimise damage, disturbance or contamination of waterways, including their bed and banks, and riparian and other water dependent vegetation.

## **Schedule 2: Public Drinking Water Source Areas (PDWSA) endorsements and conditions**

### **2.1 Prospecting, exploration, retention and miscellaneous licences/activities.**

1. All activity within proclaimed public drinking water source areas shall comply with the current published version of the DWER's Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas. Key issues that need to be considered within the Water Quality Protection

Note are:

- All prospecting/exploration/activity in respect to licence purpose involving the storage, transport and use of toxic and hazardous substances (including human wastes) within public drinking water source areas being prohibited unless approved in writing by the DWER.
- Seek written advice from the DWER if handling, storing and/or using hydrocarbons and potentially hazardous substances.

### **2.2 Mining lease and general purpose lease/activities.**

1. All activity within proclaimed public drinking water source areas shall comply with the current published version of the DWER's Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas. Key issues that need to be considered within the Water Quality Protection

Note are:

- All mining/activity in respect to mining operations involving the handling, storage, transport and use of toxic and hazardous substances (including human wastes) within public drinking water source areas is prohibited unless approved in writing by the DWER.
  - Seek written advice from the DWER if handling, storing and/or using hydrocarbons and potentially hazardous substances.
2. All mining/activity in respect to mining operations to be conducted in accordance with the current published version of the DWER's *Water Quality Protection Guidelines: Mining and Mineral Processing* and relevant Water Quality Protection Notes including *Land use compatibility in public drinking water source areas*. Key issues derived from the various Water Quality Guidelines and Notes include:
    - All mining/activity in respect to mining operations within three metres of the maximum wet season water table are prohibited in public drinking water source areas unless approved in writing by the DWER.
    - Disposal of domestic and industrial waste (other than approved tailings) is incompatible within public drinking water source areas, except for class 1 landfill (inert) materials which may be disposed of within P3 areas at designated sites if approved in writing by the DWER.
    - Mineral processing, tailings storage, wastewater treatment plants and mechanical plant servicing are incompatible with P1 and P2 areas.
    - Advice shall be sought from the DWER if proposing mineral processing, tailings storage, wastewater treatment plants and mechanical plant servicing within P3 areas.
    - Underground petroleum hydrocarbon and other chemical storage tanks are incompatible within P1 and P2 areas.
    - Underground petroleum hydrocarbon and other chemical storage tanks are prohibited within P3 areas, unless approved in writing by the DWER.
    - Above ground petroleum hydrocarbon and other chemical storage tanks are incompatible with P1 areas.

- Advice shall be sought from the DWER if proposing above ground petroleum hydrocarbon and other chemical storage tanks within P2 and P3 areas.
- Advice shall be sought from the DWER if proposing mining or construction camps in public drinking water source areas.

### **2.3 Condition on prospecting, exploration, retention and miscellaneous licence/activities, mining lease and general purpose lease/activities on:**

- Reservoir Protection Zones in Catchment Areas
- Wellhead Protection Zones in Underground Water Pollution Control Areas
- Wellhead protection zones in Water Reserves.

#### **Condition heading:**

Consent to mine on *[insert details of Catchment Area or Underground Water Pollution Control Area or Water Reserve, whichever is applicable]* granted by Minister responsible for *Mining Act 1978* on *[insert date consent to mine granted]* subject to:

#### **Condition:**

No mining on any *[insert Reservoir Protection Zone ID or Wellhead Protection Zone ID, whichever is applicable]* located within the subject mining tenement boundaries without first obtaining the written consent of the Minister responsible for *Mining Act 1978*.

## **Schedule 3: Clearing Control Catchments (Country Areas Water Supply Act 1947) endorsements**

### **3.1 Apply to all tenement types**

Clearing of any area of vegetation is prohibited within *[insert name of clearing control catchment]* without appropriate licensing from the DWER.

## **Schedule 4: Waterways Management Areas (Waterways Conservation Act 1976) endorsements**

### **4.1 Prospecting, exploration, retention and miscellaneous licences/activities.**

1. Prior to undertaking any prospecting/exploration/activity in respect to licence purpose within a Waterways Management Area the licensee shall seek advice from DWER.
2. Any dredging and/or reclamation within a Waterway Management Area which affects the waterway or adjacent land within the Waterway Management Area is prohibited unless a current licence to dredge and/or reclaim has been issued by DWER.
3. Any discharge or deposit of any matter within a Waterway Management Area which affects the waterway or adjacent land within the Waterway Management Area is prohibited unless a current disposal licence has been issued by DWER.
4. 4.2 Mining lease and general purpose lease/activities.
5. Prior to undertaking any mining/activity in respect to mining operations within a Waterway Management Area the lessee shall seek advice from DWER.
6. Any dredging and/or reclamation within a Waterway Management Area which affects the waterway or adjacent land within the Waterway Management Area is prohibited unless a current licence to dredge and/or reclaim has been issued by DWER.
7. Any discharge or deposit of any matter within a Waterway Management Area which affects the waterway or adjacent land within the Waterway Management Area is prohibited unless a current disposal licence has been issued by DWER.

## **Schedule 5: Proclaimed surface water areas, irrigation districts, and rivers (RIWI Act) endorsements**

### **5.1 Prospecting, exploration, retention licences; and mining leases/activities.**

1. The taking of surface water from a watercourse or wetland is prohibited unless a current licence has been issued by DWER.
2. No prospecting/exploration/mining/activity is to be carried out if:
  - it may obstruct or interfere with the waters, bed or banks of a watercourse or wetland; and
  - it relates to the taking or diversion of water, including diversion of the watercourse or wetland, unless in accordance with a permit issued by the DWER.
1. Advice shall be sought from DWER and the relevant water service provider if proposing prospecting/exploration/ mining/activity in an existing or designated future irrigation area, or within 50 metres of a channel, drain or watercourse from which the water is used for irrigation or any other purpose, and the proposed activity may impact water users.

### **5.2 Miscellaneous licence/activities.**

1. The taking of surface water from a watercourse or wetland is prohibited unless a current licence has been issued by DWER.
2. Advice shall be sought from DWER to determine if a permit is required prior to undertaking any activity in respect to the licence purpose which may obstruct or interfere with the waters, bed or banks of a watercourse, wetland or other surface water body under section 17 of the *Rights in Water and Irrigation Act 1914*.
3. Advice shall be sought from DWER and the relevant water service provider if proposing activity in respect to the licence purpose in an existing or designated future irrigation area, or within 50 metres of a channel, drain or watercourse from which the water is used for irrigation or any other purpose, and the proposed activity may impact water users.

### **5.3 General purpose lease/activities.**

1. The taking of surface water from a watercourse or wetland is prohibited unless a current licence has been issued by DWER.
2. No activity in respect to lease purpose is to be carried out that may obstruct or interfere with the waters, bed or banks of a watercourse, wetland or other surface water body under section 17 of the *Rights in Water and Irrigation Act 1914*, unless in accordance with a permit issued by DWER.
3. Advice shall be sought from DWER and the relevant water service provider if proposing activity in respect to the lease purpose in an existing or designated future irrigation area, or within 50 metres of a channel, drain or watercourse from which the water is used for irrigation or any other purpose, and the proposed activity may impact water users.

## **Schedule 6: Proclaimed groundwater areas (RIWI Act) endorsements**

### **6.1 Apply to all tenement types.**

1. The taking of groundwater and the construction or altering of any well is prohibited without current licences for these activities issued by DWER, unless an exemption otherwise applies.

## **Schedule 7: Artesian (confined) aquifers and wells (apply state-wide) endorsements**

### **7.1 Apply to all tenement types.**

1. The taking of groundwater from an artesian well and the construction, enlargement, deepening or altering of any artesian well is prohibited unless current licences for these activities have been issued by DWER.

## **Schedule 8: Reserve 31165 endorsements**

### **8.1 Apply to all tenement types.**

Aboriginal heritage protection measures to be considered prior to undertaking any ground disturbing activity on Reserve 31165 (joint vestees Department of Water and Environmental Regulation and the Miriuwung Gajerrong Corporation) to avoid any breach of the provisions of the Aboriginal Heritage Act 1972 and Regulations there under.

## **Supplementary information on restricting mining on reservoir and wellhead protection zones**

The *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and *Country Areas Water Supply Act 1947* together provide for the establishment of Underground Water Pollution Control Areas, Catchment Areas, and Water Reserves, to protect Public Drinking Water Source Areas (PDWSA).

Reservoir Protection Zones (RPZ) fall within Catchment Areas, and are defined to protect water sources from contamination in the immediate vicinity of reservoirs. Wellhead Protection Zones (WPZ) fall within Underground Water Pollution Control Areas or Water Reserves, and are defined to protect drinking water sources from contamination in the immediate vicinity of production wells.

Catchment Areas, Underground Water Pollution Control Areas and Water Reserves are reserved land and attract the reserved land provisions of the *Mining Act 1978*. Pursuant to section 23 of the reserved land provisions, no mining can be carried out in respect of such reserved land without first obtaining the consent of the Minister responsible for the *Mining Act 1978*. Mining consent may be provided, but no ground disturbance using mechanised equipment is allowed to proceed until a PoW, MP and MCP is approved by DMIRS.

Prior to this 2016 Agreement, when DMIRS granted consent to mine in a PDWSA area that contained a RPZ or WPZ, endorsements were applied to the grant, to inform the tenement holder that mineral exploration and operations within any RPZ or WPZ required approval by DWER, and that the following activities were prohibited within wellhead protection zones and reservoir protection zones:

- Mineral processing, tailings storage, wastewater treatment plants and mechanical plant servicing
- Underground petroleum hydrocarbon and other chemical storage tanks
- Above ground petroleum hydrocarbon and other chemical storage tanks.

To better ensure protection of wellheads and reservoirs within PDWSA, from the outset of a tenement, this 2016 Agreement includes a new standard condition which will be imposed on the tenement to prevent any mining activities taking place on RPZ or WPZ, irrespective of the holder using mechanised equipment or not. Any consent to mine that is granted in respect of Catchment Areas, Underground Water Pollution Control Areas or Water Reserves that contain a protection zone will therefore be conditional, in that no mining is allowed within the RPZ or WPZ.

The new standard condition regarding conditional consent in RPZ and WPZ notifies that the tenement holder cannot undertake any mining activity in a protection zone unless the consent of the Minister for Mines and Petroleum is obtained, in accordance with Section 23 (2) of the *Mining Act 1978*.

However, should the tenement holder subsequently wish to carry out mining on a RPZ or WPZ then he would need to get (subject to the new condition) a new consent from the Minister for Mines and Petroleum in respect to mining in a protection zone, but such consent would not be given until the Minister for Mines and Petroleum (or DMIRS as the Minister's delegate) has consulted directly with the Minister for Water (or DWER as the Minister's agent) in respect to the tenement holder's proposed activities.

The new standard condition (shown in Section 12, Schedule 2.3) will be imposed on new tenement applications, replacing the use of the endorsements listed in previous administrative agreements. The new condition heading and condition will read as follows:

### **Condition heading:**

Consent to mine on *[insert details of Catchment Area or Underground Water Pollution Control Area or Water Reserve, whichever is applicable]* granted by Minister responsible for *Mining Act 1978* on *[insert date consent to mine granted]* subject to:

### **Condition:**

No mining on any *[insert Reservoir Protection Zone ID or Wellhead Protection Zone ID, whichever is applicable]* located within the subject mining tenement boundaries without first obtaining the written consent of the Minister responsible for *Mining Act 1978*.

Existing tenements will still have the old endorsements (which were applied prior to the implementation of this 2016 Agreement), and will not have the new condition applied, unless determined by DMIRS in accordance with the arrangements set out in section 5 of this Agreement ("*Procedural arrangements for existing titles and operations*").

## **Appendix 1: List of common exploration and mining related activities which may have a negative impact on a WRM area**

DMIRS ED is to consider this list and Section 7 when the ED is required, in accordance with Table 1, to make a determination on whether or not to seek DWER advice. This list is therefore applicable to those POW, MP, MCP or Amendment applications where the protocols set out in Table 1 state “Where the activity is likely to have negative impact on WRM area, ED seeks advice from DWER”.

This list is provided as guidance only and does not constitute a complete list of mining or exploration activities which may have a negative impact on WRM areas.

Referral of PoWs, MPs and MCPs to DWER should be considered for mining, prospecting and exploration activities which:

- Involve drilling within known artesian (confined) aquifers (these may be identified by the proponent in a PoW or through submission of a hydrogeological report).
- Result in the blocking, impeding or diversion (temporary or permanent) of waterways (i.e. watercourse and adjacent floodplain). For example:
  - Diversions of waterways around mine pits and other infrastructure
  - Causeways, land bridges, tracks or roads which block or divert waterways
  - Culverts raised above the natural bed of the watercourse.
- Occur within a watercourse, or within a wetland contiguous with a waterway. For example mining in a channel bed, costeans, pipework, or other activities that may degrade the watercourse.
- Result in the production of waste materials with hostile properties including but not limited to potentially acid forming (PAF) waste, and waste which may result in metalliferous drainage if poorly managed.
- Involve dewatering (or other groundwater abstraction which is likely to result in aquifer drawDWERn) and/or reinjection which may impact upon Groundwater Dependant Ecosystems (GDEs).
- Result in changes to the hydrological regime and/or water quality of a waterway which may impact upon its dependent ecosystems or other water users.
- Include the development of Tailings Storage Facilities (TSF), evaporation ponds, heap or vat leaches or a significant change to the use of these facilities (e.g. TSF expansions).
- Are likely to result in the formation of a temporary or permanent pit lake upon closure (including MCP's which include pit lakes in the proposed closure strategies).

For further guidance to determine significant or negative impacts of mining activities on water resources refer to DWER's 'Western Australian water in mining guideline' at: [www.water.wa.gov.au/PublicationStore/105195.pdf](http://www.water.wa.gov.au/PublicationStore/105195.pdf)

## Appendix: DWER and DMIRS spatial layer references for WRM areas

Water resource management (WRM) areas	DWER GIS theme/spatial area	DMIRS Tengraph or GeoMap reference
Public Drinking Water Source Areas (PDWSA) – Reservoir protection zones and Wellhead protection zones	Protection Zones for PDWSA	<b>Tengraph Ref:</b> Protection Zones for PDWSA
Public Drinking Water Source Areas (PDWSA) – P1, P2 and P3 PDWSA + Future PDWSA reserves (priority not yet assigned)	Public Drinking Water Source Areas (PDWSA)	<b>Tengraph Ref:</b> Public drinking water source areas water reserves (WR) Catchment areas (CMT) Underground water pollution control areas (GPC)
Clearing Control Catchments (CCC)	Clearing Control Catchments –CAWSA (Part IIA)	<b>Tengraph Ref:</b> CCC
Waterways - High value waterways	<p>Areas:</p> <ol style="list-style-type: none"> <li>1. Within a Wild Rivers catchment.</li> <li>2. Within any significant wetland, or within 200 metres of the outermost marked boundary of any significant wetland, if the wetland is connected to (intersected by) a waterway.</li> </ol> <p>Spatial datasets are:</p> <ul style="list-style-type: none"> <li>• Wild Rivers</li> <li>• Waterways shown on Hydrography linear medium scale 250K.</li> <li>• Significant wetlands are: <ul style="list-style-type: none"> <li>-Wetlands of international importance (Ramsar) (Austn. Govt. Dept. of Environment)</li> <li>-Wetlands of national importance (Directory of important wetlands) (Austn. Govt. Dept. of Environment)</li> </ul> </li> </ul>	<p><b>GeoMap Ref:</b> Areas:</p> <ol style="list-style-type: none"> <li>1. Within a Wild Rivers catchment.</li> <li>2. Within any significant wetland, or within 200 metres of the outermost marked boundary of any significant wetland, if the wetland is connected to (intersected by) a waterway.</li> </ol> <p>Spatial datasets are:</p> <ul style="list-style-type: none"> <li>• Wild Rivers</li> <li>• Waterways shown on Hydrographic part of Geodata topo 250K series 3.</li> <li>• Significant wetlands are: <ul style="list-style-type: none"> <li>- Wetlands of international importance (Ramsar) (Austn. Govt. Dept. of Environment)</li> <li>- Wetlands of national importance (Directory of important wetlands) (Austn. Govt. Dept. of Environment)</li> </ul> </li> </ul>

Water resource management (WRM) areas	DWER GIS theme/spatial area	DMIRS Tengraph or GeoMap reference
Waterway Management Areas	Waterway Management Areas	<b>Tengraph Ref:</b> WMA
Waterways - Other waterways	Applies state-wide, but excludes “High value waterways”.	<ul style="list-style-type: none"> <li>- Mineral Titles Division of DMIRS to apply Schedule state-wide;</li> <li>- Environmental Division of DMIRS: minor and major watercourses in tengraph</li> </ul>
Artesian (confined) Aquifers and Wells	No GIS theme/spatial layer.	<ul style="list-style-type: none"> <li>- Mineral Titles Division of DMIRS to apply Schedule state-wide.</li> <li>- Environment Division of DMIRS to be informed of Artesian aquifers, if applicable, by the proponent identifying them in the Programme of works, or other hydrogeological report.</li> </ul>
Proclaimed Surface Water Areas, Irrigation Districts and Rivers	<ul style="list-style-type: none"> <li>• RIWI Act Surface Water Areas and Irrigation Districts; and</li> <li>• RIWI Act Rivers.</li> </ul>	<b>Tengraph Ref:</b> <ul style="list-style-type: none"> <li>• SWA ID; and</li> <li>• RIWI Act Rivers.</li> </ul>
Proclaimed Groundwater Areas	RIWI Act Groundwater Areas	<b>Tengraph Ref:</b> GWA
Reserves in DWER estate administered by DWER through vesting or management order. (Land Administration Act)	DWER Estate	<b>Tengraph Ref:</b> CR (crown reserves) – where proprietor is Department of Water (DWER), Water and Rivers Commission (WRC), Water Resources Ministerial Body (WRMB) or Water Authority of WA (WAWA)
Reserve 31165 Joint vestees: DWER and Miriuwung Gajerrong Corporation	DWER Estate – Reserve 31165	<b>Tengraph Ref:</b> CR 31165

## Appendix 6: Glossary

Definitions used here are intended for informing DWER and DMIRS staff about the technical terms used by each agency. They are generally based upon legislation and technical documents.

### Department of Mines, Industry Regulation and Safety definitions

**Activity in respect to mining operations:** Section 86 of the *Mining Act 1978* refers, a general purpose lease maybe granted for use by the holder in connection with a mining operations. The use includes:

- for erecting, placing and operating machinery thereon
- depositing or treating thereon minerals or tailings
- using the land for any specified purpose.

**Activity in respect to licence purpose:** Regulation 42B of the Mining Regulations 1981 prescribe the purposes that a miscellaneous licence may be granted and may include for one or more purposes for example a road, a pipeline etc.

**Endorsements:** Imposed at the time of grant (or after grant) to draw the tenement holder's attention to requirements and obligations of the *Mining Act 1978*, or other legislation relevant to activities that may be carried out.

**Exploration:** To explore for minerals as authorised pursuant to section 66 of the *Mining Act 1978*.

**Exploration Licence:** Is a tenement used to secure ground for exploring. Term of five years renewable.

**General Purpose Lease:** Is a tenement used to secure ground for operating machinery, treating ore or storing tailings / mine water. It is held for 21 years renewable.

**Hazardous Substances:** Are defined in Part 5 of the Occupational Safety and Health Regulations 1996 (Worksafe legislation) under the *Occupational Safety and Health Act 1984*.

**Lease:** Refers to a mining lease or general purpose lease but can include both of these.

**Licence:** Refers to a prospecting licence, exploration licence, retention licence or miscellaneous licence but can also include all or any combination of these.

**Mine Closure Plan:** Pursuant to section 700 of the *Mining Act 1978*, means a document that;

- is in the form required by the guidelines
- contains information of the kind required by the guidelines about the decommissioning of each proposed mine, and the rehabilitation of the land, in respect of which a mining lease is sought or granted, as the case requires.

**Minerals:** Includes all naturally occurring substances that are not a soil or a hydrocarbon. Does not include basic raw materials (eg. clay, sand, limestone, gravel, and rock) where they occur on private land. Such basic raw materials are administered under the *Local Government Act 1995*. Note that pre-federation land statutes gave mineral rights to the owner that do not come under the *Mining Act 1978*.

**Mining:** Includes fossicking, prospecting and exploring for minerals and mining operations.

**Mining Lease:** Is a tenement used for mining and removal of minerals in, on or under the land surface. It is held for 21 years renewable.

**Mining Operation:** This term is defined in section 8 of the *Mining Act 1978* and includes any mode or method of working whereby any earth, rock, fluid or mineral bearing substance may be disturbed, removed, washed, sifted, crushed, leached, distilled, evaporated, smelted or refined or dealt with for the purpose of obtaining any mineral. Term covers over burden removal, storage and treatment and the harvesting of salt or other evaporates.

**Mining Proposal:** Pursuant to section 700 of the *Mining Act 1978*, means a document that;

- is in the form required by the guidelines (approved by the Director General of Mines)

- contains information of the kind required by the guidelines about proposed mining operations in, on or under the land in respect of which a mining lease is sought or granted.

**Mining Tenement:** General term for a licence or lease (mining tenure) issued under the *Mining Act 1978*.

**Miscellaneous Licence:** Is a tenement used to secure ground for purposes such as roads, pipelines or bore-fields. It is held for 21 years renewable.

**Negative Effect:** Refer to Section 7.

**Programme of Works:** Is the document that is required before ground disturbance (exploration) using mechanical equipment is allowed to proceed. It describes the activity, environment, and methods for minimising disturbance and rehabilitation initiatives for the proposal. Assessed by the Environment Division of DMIRS.

**Prospecting:** To prospect for minerals as authorised pursuant to section 48 of the *Mining Act 1978*.

**Prospecting Licence:** Is a tenement (maximum of 200 ha in area) used to secure ground for prospecting / exploring. Term of 4 years and is renewable for one period of 4 years.

**Retention Licence:** Is a licence used by a primary tenement holder to retain the land where there is an identified mineral resource but which is uneconomic or is being used to sustain future mining operations, it is a retaining title where the expenditure obligations are relaxed and rent is cheaper.

**State Agreement Act:** Major resource projects are administered by Department of Jobs, Tourism, Science and Innovation under acts ratified by State Parliament. Note some mining tenements granted under the *Mining Act 1978* will also be subject to State Agreements (where the Act provisions differ then the State Agreement provisions prevail).

### Department of Water and Environmental Regulation definitions

**Artesian aquifer:** A confined aquifer in which the hydraulic pressure is sufficient to cause water to rise above the land surface in a well/bore or spring. If the pressure is insufficient to cause the well to flow at the surface, it is called a sub- artesian aquifer.

**Artesian Well:** Refers to a well, including all associated works from which water flows, or has flowed, naturally to the surface.

**Bank:** is the part of the waterway that confines the water in the bed and may also include as much of the land adjoining the watercourse to contribute to the function of containing the water, and may include an artificially improved or created bank.

**Bed:** with reference to a waterway, means the land over which water normally flows or which is normally covered by water, whether permanently or intermittently; but does not include land from time to time temporarily covered by flood waters abutting on or adjacent to the bed.

**Catchment:** The area of land which intercepts rainfall and contributes the collected water to surface water (streams, rivers, wetlands) or groundwater.

**Catchment Area:** An area proclaimed under the *Metropolitan Water Supply Sewerage and Drainage Act 1909* or *Country Areas Water Supply Act 1947* to allow the protection and use of surface water for public drinking water supplies.

**Clearing Control Catchments:** Catchments proclaimed under the *Country Areas Water Supply Act 1947* in which the clearing of native vegetation requires a licence from the Department of Water and Environmental Regulation, as specified in the Country Areas Water Supply (Clearing Licence) Regulations 1981.

**Dam:** A structure constructed across a drainage system which may create a reservoir to store surface water flow for water supply use or release in a controlled manner for DWERNstream use. A dam can be constructed across a river valley or at the side of a valley to store water pumped into it from “run of river” flow. Dams and associated storage reservoirs also store water for farm use.

**Floodplain:** An area of land adjacent to a river, stream, lake or watercourse, or a coastal flat that is subject to inundation from time to time. Management of these areas is important to maintain the ecological health of a riverine system.

**Floodway:** The river channel and a portion of the floodplain, which forms the main flow path for floodwaters once the main channel has overflowed.

**Groundwater:** Water that occupies the pores and crevices of rock or soil.

**Groundwater Area:** An area proclaimed under the *Rights in Water and Irrigation Act 1914* in which a licence to construct/ alter a well and a licence to take groundwater is required.

**Groundwater Dependent Ecosystems (GDE):** Ecosystems that require access to groundwater to meet all or some of their water requirements so as to maintain the communities of plants and animals, ecological processes they support, and ecosystem services they provide. In-stream areas of rivers, riparian vegetation, springs, wetlands, subterranean aquatic karst, rock aquifer ecosystems and phreatophytic vegetation may be GDEs.

**High value waterways:** Those areas for which DWER has some management responsibility, and which are a subset of the high conservation significance areas defined in the EPA Guidance statement No. 33 Section B5.2.2.

The term high value waterways has been created only for the purpose of this Administrative Agreement. There is currently no single spatial dataset which comprehensively describes these areas. Given these limitations, high value waterways are currently to be defined as:

- Within Wild River catchments
- Areas in and around significant wetlands, which are connected to (intersected by) waterways.

Where:

- Wild river catchments are as shown in DWER's Wild Rivers dataset.
- The area "in and around" a significant wetland is spatially defined as:
  - the area inside the marked boundary of the wetland; and
  - the area around the wetland which is within 200m of the outermost marked boundary of the wetland.
- Significant wetlands are Wetlands of international importance (Ramsar), and Wetlands of national importance (Directory of Important Wetlands in Australia), as defined by the Australian Government Department of Environment and Energy.
- Waterways are as shown on the Hydrographic part of Geodata topo 250K series 3, known within DWER as "Hydrography linear medium scale 250K".

DWER may, at a future date, request that DMIRS consider additional or alternative spatial datasets to identify high value waterways, if/when relevant datasets become available.

**Intermittent waterway:** a waterway that flows at irregular intervals and that may be dry for extended periods.

**Other waterways:** all waterways in WA, except waterways defined as "High value waterways", and waterways within "Waterways Management Areas" declared under the *Waterways Conservation Act 1976*.

**Perennial Waterway:** A waterway that has a continual flow of water.

**Public Drinking Water Source Areas:** Public drinking water source area (PDWSA) is the collective name given to any area proclaimed under legislation for the management and protection of a water source used for public drinking water supplies. They may be Catchment Areas, Water Reserves or Underground Water Pollution Control Areas.

In a PDWSA, the State Government has defined three types of protection area to manage land use as follows:

- P1:** P1 source protection areas are defined to ensure that there is no degradation of the water source. P1 areas are declared over land where the provision of the highest quality public

drinking water is the prime beneficial land use. P1 areas are managed in accordance with the principle of risk avoidance.

**P2:** P2 source protection areas are defined to ensure that there is no increased risk of pollution to the water source. P2 areas are declared over land where the provision of public water supply is a high priority. P2 areas are managed in accordance with the principle of risk minimisation.

**P3:** P3 source protection areas are defined to minimise the risk of pollution to the water source. P3 areas are declared over land where water supply needs coexist with other land uses such as residential, commercial and light industrial developments. Protection of P3 areas is achieved through management guidelines rather than restriction on land use.

**Proclaimed Surface Water Areas and Irrigation Districts:** Areas of land proclaimed under the *Rights in Water and Irrigation Act 1914*. Within these areas the right to the use and flow and the control of water within all surface water features including wetlands and waterways is managed by the Department of Water and Environmental Regulation.

**Receiving water:** Waters into which treated or untreated wastewater, process water or de-water are discharged, or where the water resource, including water quality, may be adversely impacted by land uses in the catchment.

**Reservoir Protection Zones:** Defined to protect water sources from contamination in the immediate vicinity of reservoirs. Reservoir protection zones consist of a zone with up to a two kilometre buffer area around the top water level of a reservoir and includes the reservoir itself.

**Riparian vegetation:** the vegetation associated with waterways, that adjoins or is influenced by waterways. This vegetation generally has distinctly different structure and/or floristics than adjacent terrestrial areas. This vegetation plays important roles in waterway function by stabilising the waterway channel and banks, by influencing movement of sediments and nutrients and in ecological processes. When riparian vegetation is removed, the ability of riparian land to act as a buffer is diminished and the rate of transfer of sediments from land to water may increase, leading to eutrophication and sedimentation of waterways or wetlands.

**Seasonal Waterway:** A waterway that will only have a seasonal flow of water.

**Stormwater:** Water flowing over ground surfaces and in natural streams and drains, as a direct result of rainfall over a catchment. Stormwater consists of rainfall runoff and any material (soluble or insoluble) mobilised in its path of flow.

**Surface Water:** Water flowing or held in watercourses, wetlands or other surface water bodies in the landscape.

**Taking:** in relation to water, means to remove water from, or reduce the flow of water in, a watercourse, wetland or underground water source, including by:

- pumping or siphoning water; or
- stopping, impeding or diverting the flow of water; or
- releasing water from a wetland; or
- permitting water to flow under natural pressure from a well; or
- permitting stock to drink from a watercourse or wetland,
- and includes storing water during, or ancillary to, any of those processes or activities.

**Underground Water Pollution Control Areas:** Areas in which restrictions are put on activities that may pollute the groundwater. These areas are proclaimed under the *Metropolitan Water Supply Sewerage and Drainage Act 1909*. They are referred to as “pollution areas”, and depicted in the schedule of, the Metropolitan Water Supply, Sewerage and Drainage Bylaws.

**Watercourse:** Any river, creek, stream or brook, including its bed and banks, and estuary. This includes systems that flow permanently, for part of the year or occasionally, and including parts of the watercourse that have been artificially modified, altered or diverted from the natural course.

**Water dependent ecosystems:** Water dependent ecosystems are parts of the environment in which the composition of species and natural ecological processes are determined by the permanent or temporary presence of flowing or standing surface water or groundwater. The in-stream areas of rivers, riparian vegetation, springs, wetlands, floodplains, estuaries, karst systems and groundwater-dependent terrestrial vegetation are all water dependent ecosystems.

**Water Quality:** Physical, chemical and biological measures of water attributes.

**Water Reserve:** An area proclaimed under the *Metropolitan Water Supply Sewerage and Drainage Act 1909* or *Country Areas Water Supply Act 1947* to allow the protection and use of groundwater and future surface water sources for public drinking water supplies.

**Water Resource Management (WRM) Areas:** Areas subject of this agreement as listed in Table 1 and spatially defined in Appendix 3.

**Water Table:** Surface of the unconfined groundwater in a given vicinity.

**Waterway:** The watercourse plus the floodplain.

**Waterways Management Areas:** an area declared by the Governor under the *Waterways Conservation Act 1976* of which DWER is the custodian and has the duty of conserving the rivers, inlets and estuaries in accordance with the powers under the Act. Under the *Waterways Conservation Act 1976*, five waterways management areas have been established for the conservation of waterways and associated land. The management areas apply to:

- Wilson Inlet and associated rivers
- Albany Harbour and associated rivers
- Avon River
- Peel-Harvey estuaries
- Leschenault inlet, estuary and associated rivers.

**Well:** A hole dug or drilled into the ground to monitor or withdraw groundwater. The term includes drilled bores as a specific type of well. Household wells are commonly called bores.

**Wellhead Protection Zones:** Defined to protect drinking water sources from contamination in the immediate vicinity of production wells. They are usually circular, with a radius of 500 metres in P1 areas and 300 metres in P2 and P3 areas. Different dimensions may apply to wells sited in fractured rock aquifers.

**Wetland:** as defined in the *Rights in Water and Irrigation Act 1914*, means a natural collection of water, whether permanent or temporary, on the surface of any land and includes –

- a) any lake, lagoon, swamp or marsh; and
- b) a natural collection of water that has been artificially altered, but does not include a watercourse.

**Wild Rivers:** Wild rivers are nationally significant, unique and rare examples of waterways where biological and hydrological processes continue without significant disturbance. These waterways and catchments generally remain undisturbed due to their isolation, topography or land tenure. The important values of wild rivers include rarity, habitat, water quality and scientific value. For more information refer to *Water note 37: Wild Rivers in Western Australia*.



Government of Western Australia

**Department of Mines, Industry Regulation  
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