Environmental Applications Administrative Procedures

As received under the Mining Act 1978; Petroleum (Submerged Lands) Act 1982; Petroleum and Geothermal Energy Resources Act 1967; Petroleum Pipelines Act 1969.

Version 1.0, July 2019

Purpose
To outline the Department of Mines, Industry Regulation and Safety's (DMIRS) procedures for:

- screening environmental applications;
- the statutory and agreed administrative requirements for interaction of assessments with those required under other legislation; and
- the procedures and timeframes by which environmental assessments will be undertaken.

Objectives
The objectives of this administrative procedure are to:

- provide a clear and consistent approach in the screening and assessment of environmental applications that affords procedural fairness;
- ensure DMIRS has the necessary information to assess applications in a timely manner and its decisions are clear, well founded, reasonable, fair and based on relevant information; and
- provide transparency of assessment procedures and timeframes to industry, stakeholders and the community.

Scope
This procedure applies to all environmental applications that are assessed by DMIRS' Resource and Environmental Compliance Division for activities regulated under the Mining Act 1978; Petroleum and Geothermal Energy Resources Act 1967; Petroleum (Submerged Lands) Act 1982; Petroleum Pipelines Act 1969, and their subsidiary regulations. This procedure does not relate to Native Vegetation Clearing Permits. The Department of Water and Environmental Regulation (DWER) establishes the administrative arrangements for Native Vegetation Clearing Permits. More information is available from www.dwer.wa.gov.au.
PROCEDURE

1. Early Engagement
Proponents are encouraged to engage early with the department in order to identify site-specific environmental factors and environmental risks that need to be considered and addressed in the application. This will minimise the need for requests for further information during the assessment process. A scoping template is available to inform early discussions with the department. Contact details for the relevant environmental officers are available on the department’s website.

2. Lodgement
Environmental application submission checklists are available to persons intending to lodge an environmental application. Prior to lodging an environmental application, applicants should evaluate whether it meets all criteria specified in the relevant checklist to ensure applications are complete and contain all necessary supporting information required for assessment.

Further information on the specific lodgement methods and requirements of each application type is available on the DMIRS website. Most application types are only accepted online.

3. Preliminary Review Process (Screening)
Once an environmental application is lodged, DMIRS will screen the application in a timely manner to ensure the document meets the relevant requirements to commence assessment.

The screening process will:
• identify whether the environmental application is in accordance with relevant legislation
• identify whether the company and operator contact details, and relevant title details are provided
• identify whether all required attachments accompany the environmental application
• identify whether there are any constraints on the acceptance of applications (see Table 1).

4. Assessment Procedures
All environmental applications are processed in the order in which they are received, and DMIRS endeavours to have all applications determined within the target timeframe.

All applicants can view the status of their environmental application on DMIRS’ online application tracking system.

Table 1. Constraints on the acceptance of applications

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Constraints on acceptance of applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme of Work (PoW)</td>
<td>Relevant tenure for the area of the PoW application must be in place for DMIRS to accept the application for assessment.</td>
</tr>
<tr>
<td>Mining Proposal (MP)</td>
<td>Relevant tenure for the area must be in place for DMIRS to accept the application (except where the MP is submitted accompanying a Mining Lease application as provided for s.74 of the Mining Act 1978).</td>
</tr>
<tr>
<td>Environment Plan (EP)</td>
<td>Relevant title (or access authority) for the area of the EP must be in place and the title holder(s) must provide notification of the operator prior to submitting the first EP application for DMIRS to accept the application.</td>
</tr>
</tbody>
</table>
4.1 Request for further information from applicants

When environmental applications are under assessment, there will be situations where further information or clarity is required by DMIRS in order to finalise the assessment and make a decision. A reasonable time will be provided for applicants to respond to requests for additional information. If an applicant has failed to provide the requested information within the requested timeframe, the department will follow up once with the applicant. If the applicant still fails to provide the requested information or does not respond to clarify the expected timeline, the department will terminate the assessment and refuse to approve the environmental application.

4.2 Referrals and requests for advice to other agencies

DMIRS may refer the application or request advice from other government agencies:

- as deemed appropriate by the assessing officer, when expert information is required to inform the department’s decision making; and, or
- as required by a Memorandum of Understanding or Administrative Agreement with the relevant agency when a relevant trigger is identified.

The Memoranda of Understanding and Administrative Agreements between the department and other government agencies including any specific referral triggers and timeframes are available on DMIRS’ website.

4.3 Target timeframe

DMIRS endeavours to determine the outcome of environmental applications under assessment in accordance with its target timeframes, as set out in Table 2 below.

Table 2. Target timeframes for decision making

<table>
<thead>
<tr>
<th>Application type</th>
<th>Target timeframe for decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme of Work (prospecting/exploration)</td>
<td>80% within 30 business days</td>
</tr>
<tr>
<td>Mining Proposal</td>
<td>80% within 30 business days</td>
</tr>
<tr>
<td>Mine Closure Plan</td>
<td>80% within 60 business days</td>
</tr>
<tr>
<td>Environment Plan</td>
<td>80% within 30 calendar days</td>
</tr>
<tr>
<td>Oil Spill Contingency Plan</td>
<td>80% within 30 calendar days</td>
</tr>
</tbody>
</table>

All timelines are subject to ‘stop-the-clock’ events. This mechanism ensures the department’s assessment time does not include the time taken by other processes beyond its control. For example, Environmental Protection Authority (EPA) referrals or the time taken by the applicant to provide further information are not counted as part of the department’s assessment time.

4.4 Urgent assessments

DMIRS will only consider fast tracking applications in exceptional circumstances, and specifically where the applicant has demonstrated that the approval is needed:

- to address an immediate safety hazard;
- to prevent significant environmental harm from occurring or continuing;
- in response to an emergency event;
- for the approval of a Programme of Work when a Prospecting or Exploration Licence is converted to a Mining Lease, where it is demonstrated the activities are the same as those previously authorised on the underlying Prospecting or Exploration Licence; or
- to address an error made by DMIRS in issuing a previous approval.

Any decision to fast track an assessment can only be approved by the Executive Director Resource and Environmental Compliance or General Manager Environmental Compliance. A decision to fast track assessments will not compromise the quality of the decision made by DMIRS.

DMIRS advises that stand-by costs being borne by applicants mobilising equipment to site in anticipation of an approval is not an adequate reason for a fast-tracked assessment.

4.5 Parallel processing of environmental assessments across government agencies

DMIRS is committed to facilitating parallel processing of environmental applications where such applications require multiple approvals from other regulatory agencies. Parallel processing will be facilitated where separate environmental applications can be assessed concurrently, and/or different agencies can undertake assessment on the same environmental application concurrently, and where it is appropriate to do so. That is, DMIRS will only facilitate parallel processing where:

- there is no disadvantage to third parties;
- it does not compromise environmental outcomes;
- there are no statutory constraints;
- it does not significantly increase workload for the agencies; and
- applicants can provide the required information.

In some circumstances DMIRS may undertake parallel processing but reserve its final decision until certain specific matters in relation to other regulatory agencies are resolved. Table 3 provides information on the relevant constrains to DMIRS in both accepting and reaching a decision on environmental applications that are subject to parallel processing. Where pre-requisite approvals are required, applicants should provide evidence of these being in place at the time of their application to avoid any unnecessary delays.
Table 3: Circumstances in which DMIRS’ decision on environmental applications subject to parallel processing will be reserved until resolution of matters from other regulatory authorities or agencies

<table>
<thead>
<tr>
<th>Application Type</th>
<th>DMIRS will undertake parallel assessment, but will withhold its decision on applications until resolution of:</th>
<th>Evidence required by DMIRS[^1]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Programme of Work (PoW)</strong></td>
<td>i. formal referral under the Environmental Protection Act 1986, and/or</td>
<td>Ministerial Statement or a decision by the Environmental Protection Authority (EPA) not to assess, together with any relevant report by the Appeals Convenor.</td>
</tr>
<tr>
<td></td>
<td>ii. consultation and agreement with any other agency as required by condition of tenement, and/or</td>
<td>Correspondence from the other agency confirming that consultation and/or agreement has been met.</td>
</tr>
<tr>
<td></td>
<td>iii. the area overlaps an Aboriginal heritage site and the applicant has not commenced consultation with the Department of Planning, Lands and Heritage (DPLH).</td>
<td>Advice from DPLH that the activity will not adversely impact on the site, or that an application has been received by DPLH to disturb the site.</td>
</tr>
<tr>
<td><strong>Mining Proposal</strong></td>
<td>i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the Environmental Protection Act 1986, and/or</td>
<td>Ministerial Statement or a decision by EPA not to assess, together with any relevant report by the Appeals Convenor.</td>
</tr>
<tr>
<td></td>
<td>ii. consultation and agreement with any other agency as required by tenement or title condition, and/or</td>
<td>Correspondence from the other agency confirming that consultation and/or agreement has been met.</td>
</tr>
<tr>
<td></td>
<td>iii. consent or clearance under the Aboriginal Heritage Act 1972 when there is an impact to a registered heritage site, and/or</td>
<td>A copy of written consent or clearance (s18 approval) is from DPLH.</td>
</tr>
<tr>
<td></td>
<td>iv. a Radiation Management Plan is required</td>
<td>Letter of approval from DMIRS of Radiation Management Plan.</td>
</tr>
<tr>
<td><strong>Environment Plan (EP)</strong></td>
<td>i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the Environmental Protection Act 1986, and/or</td>
<td>Ministerial Statement or a decision by EPA not to assess, together with any relevant report by the Appeals Convenor.</td>
</tr>
<tr>
<td></td>
<td>ii. the proposal is within a Marine Park and/or</td>
<td>Correspondence from Marine Parks and Reserves Authority advising that the proposal will not have an adverse impact on the Marine Park.</td>
</tr>
<tr>
<td></td>
<td>iii. consent or clearance under the Aboriginal Heritage Act 1972 when there is an impact to a registered heritage site.</td>
<td>A copy of written consent or clearance (s18 approval) is from DPLH.</td>
</tr>
<tr>
<td><strong>Oil Spill Contingency Plan</strong></td>
<td>i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the Environmental Protection Act 1986.</td>
<td>Ministerial Statement or a decision by EPA not to assess, together with any relevant report by the Appeals Convenor.</td>
</tr>
</tbody>
</table>

[^1]: This refers to the information that is required by DMIRS before it can approve an application (as relevant to the proposal).
5. Decision-making on environmental applications

The department may not approve environmental applications if one or more of the following circumstances occur:

1. The environmental application does not meet the relevant legislative requirements.
2. The application is not acceptable on environmental grounds.
3. The applicant has been afforded an appropriate opportunity to submit further information and the decision maker considers the application remains deficient.
4. The applicant has been requested to submit further information and has not done so by the required date.

The applicant can withdraw their environmental application at any time. The applicant will be notified in writing whether or not the environmental application has been approved. If the decision maker decided not to approve the application, the notification will identify the reasons for that decision.

GLOSSARY

Accept
An environmental application is accepted for assessment when it passes the requirements of the preliminary review at the lodgement phase which is undertaken to evaluate whether the application is complete and complies with legislation and/or statutory guideline requirements.

Applicant
The proponent/party submitting the environmental application. This may be the title/tenement holder, an operator or a third party acting on behalf of the holder or operator such as a consultant.

Application
This is an environmental-based submission document that is regulated under the legislation administered by Resource Environmental Compliance Division of the Department of Mines Industry Regulation and Safety.

Approval
This is the application approval granted by the relevant decision maker. This permits the proposed activity contained within the environmental application submitted to the department to be undertaken in accordance with the terms of the decision made by the decision maker including any conditions of the approval.

Assess
This is a process of reviewing submitted documents and evaluating the administrative, legal aspects of the application against the department's guidelines, minimum standards and relevant factors and considerations.

Assessing Officer
This refers to department officers with appropriate qualifications and training to undertake the assessment of environmental applications lodged in accordance with legislation administered by the department.

Decision Maker
Refers to department officers duly authorised under the relevant legislation or empowered through Ministerial delegation to determine the outcome of an environmental application.

Lodgement
The submission of an application to the department for assessment.

Refuse to approve
For the purposes of this document, this term is used to reflect a decision maker's conclusion (upon completion of an assessment) that an environmental application is unacceptable on the grounds that it does not comply with the relevant legislation or department guidelines, or is not environmentally acceptable. In such instances, no approval will be granted. Depending on the application type, this may be termed a 'rejection' or a 'refusal'.

Screening
A preliminary review of the application.

Title/Tenure
The appropriate tenure, permit, licence, lease, access authority etc. which grants access to the location.

Withdraw
An environmental application can be requested to be withdrawn by the applicant. This can occur at any time in the preliminary review or assessment processes.
Document Hierarchy

Legislation
- Mining Act 1978 (WA)
- Petroleum (Submerged Lands) Act 1982 (WA)
- Petroleum and Geothermal Energy Resources Act 1967 (WA)
- Petroleum Pipelines Act 1969 (WA)

Statutory Documents
- Guideline for Mining Proposals in Western Australia - April 2016
- Guidelines for Mining Proposals in Western Australia - February 2006
- Guidelines for Preparing Mine Closure Plans in Western Australia - May 2015

Policy
- Environmental Regulatory Strategy

Guidelines
- Guideline for the Development of Petroleum or Geothermal Environment Plans in Western Australia - November 2016
- Guideline for the Development of an Onshore Oil Spill Contingency Plan - July 2016

Procedures
- This document

Version History

<table>
<thead>
<tr>
<th>Version</th>
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<tr>
<td>0.0</td>
<td>June 2019</td>
<td>Draft for Public Comment</td>
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Government of Western Australia

Department of Mines, Industry Regulation and Safety

8.30am – 4.30pm
Mineral House, 100 Plain Street
East Perth, Western Australia 6004
Tel: +61 8 9222 3333
Fax: +61 8 9222 3862

Online
Website: www.dmirs.wa.gov.au
Email: REC.Consultation@dmirs.wa.gov.au

Mailing address
Locked Bag 100
East Perth WA 6892

National Relay Service: 13 36 77
Translating and Interpreting Service (TIS) 13 14 50
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