

RER ADVISORY PANEL AGENDA

Date:	Fri 14 March 2014	Time:	9:30am – 11:30am
Venue:	Director General's Conference Room – Level 8, Mineral House, 100 Plain Street, East Perth		

Agenda

Item	Topic	Who
1.	Welcome, apologies, actions from previous meeting	Chair
2.	Progress update: a. Status Report b. Mining Rehabilitation Fund Status Report	Chair/all
3.	Legislative Framework	All
4.	Tenement Conditions	All
5.	Other business	Chair/all
6.	Next meeting	Chair

Supporting Papers:

1. RER Advisory Panel – minutes and actions 15 November 2013
- 2a. RER Status Report
- 2b. Mining Rehabilitation Fund Status Report
- 3a. Legislative Framework Briefing
- 3b. Proposal for Environmental Reform – Discussion Paper
4. Tenement conditions review – Report on progress

Scheduled Meetings:

- 13 June 2014, 09:30-11:30
- 19 September 2014, 09:30-11:30
- 5 December 2014, 09:30-11:30

NOTE: All meetings are audio-recorded for the sole purpose of producing accurate written Minutes of the meeting. Recordings are deleted once the Minutes are confirmed as the official record of the meeting.



File No: A1439/201201

RER ADVISORY PANEL MEETING MINUTES

Date:	14 March 2014	Time:	9:30am – 11:30am
Venue:	Director General's Conference Room – Level 8, Mineral House, 100 Plain St, East Perth		

Members present, observers and apologies

Present

Dr Phil Gorey (CHAIR)	Executive Director, Environment Division, Department of Mines and Petroleum (DMP)
Mr Simon Bennison	Chief Executive Officer, Association of Mining and Exploration Companies (AMEC)
Mr Kane Moyle	Manager – Environment, Chamber of Minerals and Energy WA (CMEWA)
Mr Harry Backes	State Director Western Australia, Cement Concrete & Aggregates Australia (CCAA)
Dr Brian Moyle	Environmental Science & Policy Coordinator, Conservation Council of Western Australia (CCWA) (<i>proxy for Mr Nic Dunlop</i>)
Mr Simon Downing	Outreach Solicitor, Environmental Defender's Office WA (EDOWA)
Mr Anthony Sutton	Director, Assessment and Compliance Division, Office of the Environmental Protection Authority (OEPA)
Mr Paul Platt	General Manager Resources Investment Division, Department of State Development (DSD) (<i>proxy for Mr Richard Riordan</i>)
Mr Ian Randles	Resources, Pastoralists and Graziers Association of WA (Inc) (PGAWA)
Mr Patrick Pearlman	Principal Solicitor, Environmental Defender's Office WA (EDOWA)
Mr Peter Skitmore	Executive Advisor Licencing and Approvals Branch, Department of Environment Regulation (<i>proxy for Mr Alan Sands</i>)

Observers

Mr Steve Tantala	Director Operations, Environment Division, Department of Mines and Petroleum (DMP)
Dr Marnie Leybourne	General Manager Administration and Reform, Environment Division, Department of Mines and Petroleum (DMP)
Mr Richard Smetana	Environmental Officer, Reform Group, Department of Mines and Petroleum (DMP)

Apologies

Mr Damien Hills	Associate Director Environment, Australian Petroleum Production and Exploration Association (APPEA)
Mr Mike Lucas	President, Amalgamated Prospectors and Leaseholders Association (APLA)
Mr Milan (Zak) Zaklan	Policy Director - Resources, Pastoralists and Graziers Association of WA (Inc) (PGAWA) (<i>proxy for Gary Peacock</i>)
Mr Andrew Taylor	Senior Policy Advisor – WA/NT, Australian Petroleum Production and Exploration Association (APPEA)
Mr Gary Peacock	Chairman - Property and Resources Committee, Pastoralists and Graziers Association of WA (Inc) (PGAWA) (<i>Milan Zaklan attending as proxy</i>)
Mr Alan Sands	Director, Environmental Regulation Division, Department of Environment Regulation (DER) (<i>Peter Skitmore attending as proxy</i>)
Mr John Connolly	Director Regulation, Department of Water (DoW)
Mr Richard Riordan	General Manager Project Facilitation, Department of State Development (DSD)



Agenda items discussed and actions to be taken

Item	Topic	Action
1.	<p>Welcome, apologies, actions from previous meeting</p>	
	<p>The Chair welcomed members to the fifth meeting of the Reforming Environmental Regulation Advisory Panel.</p> <p>Apologies</p> <p>Alan Sands from DER was an apology; Peter Skitmore attended as his proxy. Nic Dunlop was an apology; Brian Moyle attended as his proxy. Richard Riordan was an apology; Paul Platt was his proxy.</p> <p>Actions from previous meeting:</p> <ul style="list-style-type: none"> • <i>DMP to update the Status Report to incorporate milestones through the implementation phase of 2014. – Completed</i> • <i>DMP to obtain further information from Queensland on providing quarrying companies with access to basic raw materials on mining tenements (Legislative Framework)</i> • <i>DMP to identify tenements covered by State Agreements and proposals, and consult with DSD before making any changes to conditions. (Tenement Condition Review) Complete – State Agreement Act tenements will not be affected by the Review.</i> • <i>DMP to review PoW guidance material regarding industry notifying land owners, and the details required for land access agreements between mining companies and land owners. (PoW)</i> • <i>Panel to provide comment on transparency for enforcement activities, by 12 Dec 2013. (Publication of enforcement actions)</i> • <i>DMP to amend Implementation Plan to add DPAW as stakeholder and include notes from petroleum duplication and overlap meeting.</i> • <i>Outcomes-based performance measures – DMP to amend performance measures implementation plan dates and include case studies. – related to status report – with schedule in place for progression of actions.</i> • <i>Panel to provide comments on proposed performance measures by 30 November 2013 – completed</i> 	<p>Carry over action for next meeting</p> <p>Guideline Review - Status update to be provided at the next meeting</p> <p>Update implementation plan</p> <p>Performance Measures plan to be provided at the next meeting</p>



Item	Topic	Action
2.	Progress update	
	<p>As 'development phase' milestones are now completed, Status Reports have been updated to cover 'implementation phase' milestones. It is envisaged that by June 2015, much of the reform processes will be in place.</p> <p>a) Legislative Framework for Mining Regulation</p> <p>The proposed Mining Legislative amendments have recently had their first reading in the upper house of parliament, with debate expected to begin within the coming weeks. It is desired that the legislation will be passed by the end of June for Stage 1 amendments, due to how it will affect notices being issued under the <i>Mining Rehabilitation Fund Act 2012</i>. The consultation paper for the Stage 2 Amendments has been sent out, with the desire for this to be tabled in parliament during the Spring session (Further discussed in agenda item 3).</p> <p>b) Risk-based Regulatory Framework</p> <p>Work has started on developing the revised Mining Proposal format. Industry has indicated a fair bit of interest in this project. Testing to begin on proposed format devised. Would like the new arrangements to be turned on by June 2015.</p> <p>c) Reduce Duplication and Overlap</p> <p>Main amendments relate to the Native Vegetation Clearing Permit Process, with timeframes having been established. If the amendments were agreed to and passed in the Spring session, they may still not take effect until early next year to allow for processes and systems to be updated. New set of milestones developed for this project.</p> <p>d) Transparency Strategy</p> <p>Timing to progress the transparency strategy is being considered. Looking to provide as much time as required to further progress discussions and allow for the orderly implementation of this project.</p> <p>e) Review of Tenement Conditions</p> <p>Discussed at agenda item 4.</p> <p>f) Mining and Petroleum Securities</p> <p>New item to the RER program, and was established through the discussion on the Mining Rehabilitation Fund (MRF). Stakeholders made the point that a similar process of researching for petroleum securities was appropriate. Options are currently being looked at. Noted that petroleum circumstances are quite different to those of mining in WA. Currently going through a similar first stage as occurred with the MRF.</p> <p>g) Document/Guidelines Review</p> <p>The feedback from stakeholders asked about forewarning when guidelines, forms and documents will be reviewed. Setting forth a program on when this is likely to occur. This will provide a longer term vision on what is being worked on and will provide an opportunity for feedback on what will be achievable from organisations.</p>	<p>Provide status update at next meeting on outcomes of Stage 1 Amendments.</p> <p>Provide status update at next meeting of the development of revised mining proposal format.</p> <p>Release for RERAP consultation a program to review all guidelines.</p>



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	<p>h) IT System Development</p> <p>Considerations currently being undertaken on IT system development. Full end to end electronic processing of PoWs by 30 June 2014. A new system for Mining Proposal's lodgment (including spatial) by 31 December 2014. Looking at having all regulatory transactions be online by 2016 (all of DMP). Industry request they be consulted when reviewing these systems and developing them (possibly workshop) to ensure any potential issues are identified. Currently similar process being undertaken with the Mining Proposal process. Identified that IT Development will be a long consultative process to ensure that it is gotten right. Trying to ensure synergy between the new electronic process and the MRF. AER information can be transferred to the MRF system and vice-versa – this should assist in reviewing and developing the systems.</p> <p>i) MRF Status Report</p> <p>Nearly \$7 million of voluntary submissions collected so far, and \$250 million worth of bonds handed back.</p> <p>The policy/guidance for unconditional conditional performance bonds that will continue to be imposed is out for consultation and due at the end of March. The MRF will be compulsory by July 2014. No company has yet to provide data demonstrating that the MRF will cost them more than maintaining a conditional bond at a rate of 100%. Small operators are (who come under the \$50,000 threshold for MRF) being contacted to join the MRF before 1 July 2014 to avoid the levy. MRF has been identifying what has been cleared and where, and through extrapolating data can see that the mining footprint (for non-State Agreement areas) in WA is approximately 5,000 square kilometres (roughly half the size of Perth). By June should have a complete data set. Information on environmental disturbance will be made publicly available through the proposed Mining Act amendments.</p>	
3.	Legislative Framework	
	<p>Proposal for Environmental Reform Discussion Paper</p> <p>Outline and update provided for the Proposal for Environmental Reform discussion paper. Panel informed that some briefings have been undertaken on the proposal, and further briefings have been scheduled. Panel Chair advised that if organisations would like a specific briefing on the proposal, that these can be organized. The Legislative changes are a two stage process. Broad discussion paper is available for Stage 1 and outlines the intent of the changes, however does not go into specifics. Feedback so far has generally supported the proposed changes, but due to not having fine detail on the proposal, have requested further information (i.e. what will the specific amendments be?). The exposure draft will be available in the not too distant future.</p>	<p>Discussion Paper submissions to be made by 2 April 2014.</p>



Item	Topic	Action
	<p>Consolidating Environment Obligations in the <i>Mining Act 1978</i></p> <p>It was identified that the Mining Act was initially drafted as land access legislation to regulate mining, and was a very prescriptive process with a focus on tenure for property rights. Where environmental considerations arise, it was seen to not work for reasons such as the Mining Lease giving conditional approval to mine and environmental assessment getting tied up at the grant stage (i.e. mining lease applications being made at the same time as mining proposals means they are being assessed at the same time). Proposed amendments will mean a mining lease does not give approval to mine, instead giving the right to: apply to undertake mining; access to the land to undertake monitoring and sampling; and gives government a mechanism to charge fees. This means the referral process will look at the proposals, with a focus on activity rather than the lease. Tenure will be separated from environmental impacts meaning essentially any ground disturbance activity will be moved to environmental approvals.</p> <p>With an outcomes based regulatory system, obligation will be placed on tenement holders to essentially ensure that risks associated with their activities are kept ALARP. The application of the ALARP principles will reflect those currently used by petroleum regulation in WA.</p> <p>Panel raised issue of needing clear identification through MoUs on which agency is responsible for what activities/impacts through which legislation to avoid potential duplication.</p> <p>Another proposed amendment is to include a provision that if a proponent has approval to undertake an activity under another Act, they will not need approval under the Mining Act. This is to address the offence provisions. Further possible amendment is that low impact activities (i.e. small scale exploration of farming land) would not need special approval under the Mining Act as part of a risk-based regulatory framework.</p> <p>Clarifying Processes for Environmental Approvals</p> <p>Issue of two decision makers (EPA and DMP) applying the principles of Ecologically Sustainable Development (ESD) and ensuring there was no conflict between these decisions was raised by the Panel. DMP would refer to the MoU with the EPA and update this to recognise the need to apply similar principles.</p> <p>Providing Exemption for Low Impact Activities</p> <p>Issue was raised of what is considered 'low impact activities.' Currently only being considered for low risk exploration and prospecting activities, with criteria to be described in the Act or Regulations to make regulatory requirements clear for industry and stakeholders. This will not apply when there is an impact on sensitive environmental values, or where non-incident clearance of native vegetation is proposed.</p> <p>Transparency</p> <p>Mining legislation amendment act package provides head powers for regulators to make information publicly available - need to consult industry and identify final position on what will be made publicly available.</p>	



Item	Topic	Action
4.	Tenement Conditions	
	<p>The tenement condition report has been noted. Further information was requested on the rationale for the removal of specific tenement conditions. This is to be provided to the panel by the next RERAP meeting. Questions were also raised as to what will happen if conditions are removed to ensure specific works are undertaken or avoided. The Panel was advised that other mechanisms will be in place (i.e. Conditions moved into Regulations, covered by the Mining Act or other Legislation, MoU's, etc.) before standard conditions are removed.</p>	<p>Rationale for removal of standard tenement conditions to be placed in report.</p>
5.	Other business	
	<p>Implementing an Objectives Based Regulatory Framework</p> <p>Paper was provided to the Panel during the meeting looking at how to practically implement the reform project. A key instrument of this is the Mining Proposal, and what will be required in them. Mining Proposals will also require a response plan for incidents, and have a reporting requirement.</p> <p>The Panel was invited to make comment on the proposed regulatory framework.</p>	<p>Panel to provide feedback on the proposed regulatory framework.</p>
6.	Next meeting	
	Fri 13 June 2014, 9:30-11:30am	