



File No: A1439/201201

RER ADVISORY PANEL MEETING MINUTES

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| Date: | 5 December 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

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| 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) |
| Mr Chris Stanley | Representing Mr Anthony Sutton, Office of the Environmental Protection Authority (OEPA) |
| Mr John Connolly | Director Regulation, Department of Water (DoW) |
| Mr Mike Lucas | President, Amalgamated Prospectors and Leaseholders Association (APLA) |
| Mr Patrick Pearlman | Principal Solicitor, Environmental Defender's Office WA (EDOWA) |
| Mr Andrew Taylor | Senior Policy Advisor – WA/NT, Australian Petroleum Production and Exploration Association (APPEA) |
| Mr Milan Zaklan | Representing Mr Gary Peacock, Pastoralists and Graziers Association |

Observers

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| 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) |
| Ms Kate Buckley | Senior Policy Officer, Administration and Reform, Environment Division, Department of Mines and Petroleum (DMP) |
| Ms Hayley Daniels | Graduate Officer, Administration and Reform, Environment Division, Department of Mines and Petroleum (DMP) |

Apologies

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| Dr Nic Dunlop | Conservation Council of Western Australia (CCWA) |
| Mr Richard Riordan | General Manager Project Facilitation, Department of State Development (DSD) |
| Mr Alan Sands | Director, Environmental Regulation Division, Department of Environment Regulation (DER) |
| Mr Anthony Sutton | Director, Assessment and Compliance Division, Office of the Environmental Protection Authority (OEPA) |
| Mr Gary Peacock | Chairman, Private Property Rights & Resources Sub-Committee Pastoralists and Graziers Association of WA (Inc) (PGA) |



Agenda items discussed and actions to be taken

| Item | Topic | Action |
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| 1. | Welcome, apologies, actions from previous meeting | |
| | <p><u>Welcome</u></p> <p>The Chair welcomed members to the eighth meeting of the Reforming Environmental Regulation Advisory Panel.</p> <ul style="list-style-type: none">• The Chair noted that the next meeting is not until March 2015 and as this will be a busy time of year out of session feedback will likely be requested.• Several guideline reviews are currently underway (MCP/AER/MP) and the Chair provided thanks to all those who have participated on working groups and/or have provided feedback.• The follow-up Auditor General Report, released on 19 November 2014, was supportive of the reform process. The report is available at: https://audit.wa.gov.au/wp-content/uploads/2014/11/report2014_20-Mining.pdf• The Chair confirmed that on consideration of feedback on the Cost Reflective Pricing Options discussion paper, DMP will be introducing an assessment fee for mining proposals and programmes of work, with no compliance fee. DMP will communicate further with the Panel on the assessment fee model out of session. | Completed |
| | <p><u>Actions from previous meeting:</u></p> <p>a.) DMP Environmental Regulatory Strategy (Action: Update)</p> <ul style="list-style-type: none">• The Environmental Regulatory Strategy has been updated based on the discussions from the previous meeting and distributed to the Panel. The updates are discussed further under Agenda Item 3. | Completed |
| | <p>b.) DMP Transparency Implementation Plan</p> <ul style="list-style-type: none">• The Transparency Implementation Plan has been updated based on the discussions from the previous meeting and distributed to the Panel. | Completed |
| | <p>c.) MAP Recommendations Progress Audit Report (Action: Develop report)</p> <ul style="list-style-type: none">• The Panel noted the Audit report of progress against the MAP recommendations.• The Chair reiterated the RER program is focused on delivering these recommendations and will provide an updated audit report in six months time.• It is the department's goal that the MAP recommendations will have been substantially been delivered or addressed within the next 12 months. | |



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| 2. | Legislative Amendments Update | |
| | <p>The Chair provided an update on the timelines for consultation (requesting feedback by 19 December), with the aim of introducing the amendments to Parliament in February.</p> <p>The Panel discussed the legislative amendments. Support was indicated for the narrow definition of environment limited to ecological matters, noting it assists in avoiding duplication with other existing legislation.</p> <p>The Panel noted that the Director General may also have regard to social, economic and cultural attributes of the land when deciding whether to approve Programmes of Work or Mining Proposals. As these matters are beyond the scope of 'environment' information provided by the proponent, the Panel identified that this decision making will need to be supported by clear procedural fairness to enable the proponent the opportunity to provide evidence in those decisions. DMP will need a clear decision making process of how it intends to inform and apply that discretion. It was raised that there may also be beneficial social and economic effects from project developments.</p> <p>The CCAA raised they were interested in the likely scope of applying the 'low impact criteria' and noted these will be provided in the regulations and supporting guidelines. DMP will undertake further consultation on the development of regulations and guidelines.</p> <p>Panel queried the consultation process. For each submission made on the draft amendments DMP will respond directly to those comments in order to finalise the amendment bill. There will be no further public consultation periods. A single bill will be introduced which will include the amendments to the EP Act.</p> <p>It was reiterated that only assessment fees are being pursued for cost recovery, not compliance fees. It was expected that the the model for cost-reflective pricing would be finalised in the new year, with IT systems developed for managing the fees. Online lodgement requirements are scheduled for July 2015.</p> <p>All systems will move to online lodgement by July 2016. APLA raised they will be running training sessions for their members and noted they have received excellent assistance from DMP to date with assisting members with online systems. DMP committed to provide assistance as PoW for prospecting move online.</p> | <p><i>DMP to provide the Panel with a clear decision making process on how DG's discretion will be applied</i></p> |
| 3. | Risk Based Regulation Update | |
| | <p>Steve Tantala presented DMP's Environmental Regulatory Strategy document, including information on environmental factors, environmental outcomes, regulatory objectives and regulatory performance measures.</p> <p>Questions were raised about how the proponent and the department would come to 'agreed' environmental outcomes. The Panel raised that the Regulatory Strategy should include how environmental outcomes are considered, such as a review process for disputes on what the environmental factors and environmental outcomes are, and consideration in deciding whether or not to approve an</p> | |



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| | <p>application.</p> <p>DMP will provide clear guidance on its expectations of industry to identify relevant environmental factors and outcomes for their site. Guideline documents will be prepared on systems for environmental management and risk assessment, and baseline data. The Panel considered it important that there be no conflicting or duplicating requirements with Part IV approvals.</p> <p>The topic of submission timelines and regulatory burden of annual environmental reports was raised. It was noted that the work being done to consolidate reporting requirements would address this concern, and the rationalisation of tenement conditions.</p> | <p><i>DMP to provide a timeline on production of guideline documents</i></p> |
| 4. | Tenement Conditions Review Update | |
| | <p>An integral part of this condition review and rationalisation process is establishing clear and enforceable common obligations in the <i>Mining Act 1978</i> and supporting regulations. In the new regulatory framework, tenement conditions will only be applied in response to site specific issues. Those that are currently imposed but become obsolete, due to legislative changes or other reforms, will be removed.</p> <p>The results of the review indicate that there are 72 environmental operational conditions being applied at the activity approval stage, seventeen of which have been classified for <i>immediate removal</i> and 55 for <i>future removal</i>. DMP will liaise with other agencies regarding the remaining tenure-related conditions.</p> <p>It was raised that the process for removing conditions from existing tenements requires legal advice and could be labour intensive. Noted the Mining Act allows the Minister to vary environmental conditions at any time.</p> <p>The possibility of incorporating condition removal into the AER review process was discussed, as was the potential for automation. It was noted that a notification procedure for tenement holders will still be necessary.</p> | <p><i>DMP to assess workload needs and reevaluate timeframe for removal of redundant tenement conditions.</i></p> |
| 5. | RER Status Report | |
| | <p>It was queried whether the petroleum securities paper would focus on the financial assurance arrangements that NOPSEMA is currently progressing.</p> <p>The Chair indicated that it would be a preliminary discussion paper on some of the challenges, identifying the problem that needs to be resolved, and potential options.</p> <p>The combined presentation of the MRF and petroleum securities in one section of the RER status report was questioned. It was agreed MRF sits outside the RER process but there are common reporting obligations on industry across both that DMP plans to streamline. A decision was made to restructure the status report to instead reflect the progress towards consolidated reporting requirements.</p> | <p><i>DMP to restructure the RER status report based on discussions.</i></p> |
| 6. | Next meeting: 13 March 2015 | |