



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*

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Purpose

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

- procedures for screening and assessing environmental applications, and making decisions;
- the statutory and agreed administrative requirements for interaction of assessments with those required under other legislation; and
- the target timeframes for completing environmental assessments.

Objectives

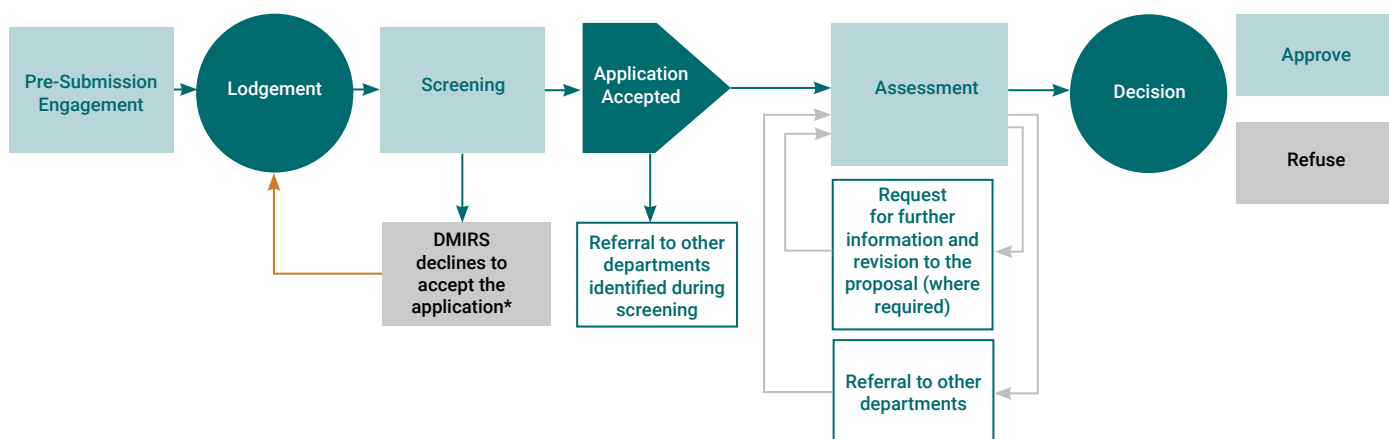
The objectives of this administrative procedure are to:

- 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 ensure 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 includes Programmes of Work, Mining Proposals, Mine Closure Plans, Environment Plans and Oil Spill Contingency Plans.

This procedure does not apply to assessments undertaken by DMIRS via delegation under the *Environmental Protection Act 1986* (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.



*Where the Department declines to accept an application, the application will need to be revised and return to the lodgement step.

PROCEDURE

1. PRE-SUBMISSION ENGAGEMENT

For mining and petroleum proposals, and any complex exploration proposals, proponents are encouraged to engage early with the department in order to discuss identified site-specific environmental factors and risks that need to be considered in the application. This will assist in minimising the need for requests for further information during the assessment process.

For mining proposal applications, a scoping template is available in the Mining Proposal Guidance – How to prepare in accordance with Part 1 of the [Statutory Guidelines for Mining Proposals](#) to inform early discussions with the department.

2. LODGEMENT

Prior to lodging, applicants need to ensure their application meets all the form and content requirements specified in the relevant legislation and Statutory Guidelines. Applications also need to include all necessary supporting information required for an appropriate environmental assessment to be completed. Guidance on the information requirements is available on the DMIRS website.

All environmental applications are submitted online, with the exception of Programme of Work - Prospecting applications which may be submitted by mail or over the counter at any DMIRS office. Further information on the specific lodgement methods and requirements of each application type is available on the DMIRS website.

3. SCREENING

Once an environmental application is lodged, DMIRS will screen the application to ensure the document meets the relevant requirements to commence assessment.

The screening process will:

- verify whether the form and content of the application is in accordance with the requirements of the 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)
- undertake an early identification of any referrals required to other departments in the event the application is accepted for assessment, to ensure this occurs early in the assessment process.

Table 1. Constraints on the acceptance of applications

Application Type	Constraints on acceptance of applications
All	Where the proposal includes aspects that are outside the legislated purpose of the tenure/title that is granted, or is not permitted on the relevant tenure/title. Where the applicant is a third party and they do not have the authority of the tenement holder to submit or carry out the proposed activities.
Programme of Work (PoW)	Relevant tenure for the area of the PoW application must be in place for DMIRS to accept the application for assessment. Where the tenement intersects with private land, surface rights must be granted prior to the submission of a PoW application.
Mining Proposal (MP)	Primary tenure (i.e. a mining lease) for the mine 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 <i>Mining Act 1978</i>). Applications can be received while miscellaneous licences and general purpose leases for the project have been lodged but are still pending approval (note that MP approval cannot be granted until all tenure is granted).
Environment Plan (EP)	As per the Petroleum and Geothermal Energy Resources (Environment) Regulations 2012, Petroleum Pipelines (Environment) Regulations 2012 and Petroleum (Submerged Lands) (Environment) Regulations 2012, a petroleum instrument must be in place and the instrument holder must notify the Minister in writing of the contact details of the operator of an activity before the first submission or at the time of the first submission of the EP. DMIRS will only assess draft EPs concurrently to the title application in the instance where there is a title transfer or for special prospecting authorities.

4. ASSESSMENT PROCEDURES

In order to ensure equity to all applicants, DMIRS attempts to assess all environmental applications in the order in which they are received. All applicants can view the status of their environmental application on DMIRS' online application tracking system.

4.1 Request for further information from applicants

When environmental applications are under assessment, there may be instances where further information or clarity is required by DMIRS in order to finalise the assessment and make a decision. Where required, requests for further information will be made in writing (letter or email) to the contact designated on the application. These requests are considered a 'stop-the-clock' event. A reasonable time will be provided for applicants to respond to requests for additional information.

If an applicant has failed to respond within the requested timeframe, DMIRS will follow up once with the applicant in writing. If the applicant still fails to provide the requested information or does not respond to clarify the expected timeline, DMIRS will terminate the assessment and refuse the environmental application.

If an applicant's response does not adequately address the request for further information, DMIRS will follow up once more with the applicant in writing. If the applicant still fails to provide all the requested information or does not respond in the requested timeframe, the application will be refused.

4.2 Referrals and requests for advice to other departments

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

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

Referrals to other departments or requests for advice are considered a 'stop-the-clock' event.

The Memoranda of Understanding and Administrative Agreements DMIRS and other government departments, 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

Application type	Target timeframe for decision
Programme of Work (prospecting/exploration)	From 1 July 2020: 80% within 15 business days
Mining Proposal	80% within 30 business days
Mine Closure Plan	80% within 60 business days
Environment Plan	80% within 30 calendar days
Oil Spill Contingency Plan	80% within 30 calendar days

All timelines are subject to 'stop-the-clock' events. This mechanism ensures the DMIRS assessment time does not include the time taken by other processes outside of DMIRS. For example, referrals to other departments for advice, or the time taken by the applicant to provide further information, are not counted as part of the DMIRS assessment time. In relation to referrals to other departments, DMIRS will still continue to assess the application to the extent possible while waiting on the advice back from the relevant Department.

4.4 Parallel processing of environmental assessments

DMIRS is committed to parallel processing environmental applications where projects require multiple approvals. Parallel processing will be facilitated where separate environmental applications can be assessed concurrently, and/or different departments can undertake assessment on the same environmental application concurrently, where it is appropriate to do so. That is, DMIRS will parallel process applications where:

- it does not compromise environmental outcomes;
- there are no statutory constraints;
- it does not significantly increase workload for the departments; 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 legislative requirements are resolved. Table 3 provides information on the relevant constraints to DMIRS in both accepting and reaching a decision on environmental applications. 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 departments

Application Type	DMIRS will undertake parallel assessment, but will withhold its decision on applications until resolution of:	Evidence required by DMIRS ¹
Programme of Work (PoW)	i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the <i>Environmental Protection Act 1986</i> , and/or (including any appeals process relating to these decisions).	Notification from the Minister for Environment under section 45(7) of the <i>Environmental Protection Act 1986</i> stating that decision-making authorities are now permitted to exercise their decision making powers, or a decision by the Environmental Protection Authority (EPA) not to assess the proposal.
	ii. consultation and agreement with any other department as required by condition of tenement	Correspondence from the other department confirming that consultation and/or agreement has been met.
	iii. the area overlaps an Aboriginal heritage site and the applicant has not commenced consultation with the Department of Planning, Lands and Heritage (DPLH).	Evidence that applicant has commenced consultation with DPLH.
	iv. consent of Minister is required for entry on reserves or other restricted lands.	Notification of Ministerial Consent.
Mining Proposal	i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the <i>Environmental Protection Act 1986</i> .	Notification from the Minister for Environment under section 45(7) of the <i>Environmental Protection Act 1986</i> stating that decision-making authorities are now permitted to exercise their decision making powers, or a decision by the EPA not to assess the proposal.
	ii. consultation and agreement with any other department as required by tenement or title condition.	Correspondence from the other department confirming that consultation and/or agreement has been met.
	iii. consent or clearance under the <i>Aboriginal Heritage Act 1972</i> when there is an impact to a heritage site.	A copy of written consent or clearance (s18 approval) is from DPLH.
	iv. consent of Minister is required for entry on reserves or other restricted lands.	Notification of Ministerial Consent.
	v. grant of the mining lease where the mining proposal is submitted accompanying a Mining Lease application as provided for s.74 of the <i>Mining Act 1978</i> , or other relevant tenure for other mining proposals.	

Application Type	DMIRS will undertake parallel assessment, but will withhold its decision on applications until resolution of:	Evidence required by DMIRS ¹
Environment Plan (EP)	i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the <i>Environmental Protection Act 1986</i> .	Notification from the Minister for Environment under section 45(7) of the <i>Environmental Protection Act 1986</i> stating that decision-making authorities are now permitted to exercise their decision making powers, or a decision by the EPA not to assess the proposal.
	ii. the proposal is within a Marine Park.	Correspondence from Marine Parks and Reserves Authority advising that the proposal will not have an adverse impact on the Marine Park.
	iii. consent or clearance under the <i>Aboriginal Heritage Act 1972</i> when there is an impact to a registered heritage site.	A copy of written consent or clearance (s18 approval) is from DPLH.
	iv. consent of Minister is required for entry on reserves or other restricted lands.	Notification of Ministerial Consent.
	v. transfer of a title, where the EP has been submitted concurrently to an application to transfer a title.	
	vi. grant of a title where the EP is submitted concurrently to an application for a special prospecting authority.	
Oil Spill Contingency Plan	i. awaiting a decision by the EPA regarding referral, or an assessment decision by the Minister for Environment, under Part IV of the <i>Environmental Protection Act 1986</i> .	Ministerial Statement or a decision by EPA not to assess, together with any relevant report by the Appeals Convenor.

¹ This refers to the information that is required by DMIRS before it will approve an application (as relevant to the proposal).

4.5 Urgent assessments

DMIRS will only consider accelerating assessments 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;
- to address an error made by DMIRS in issuing a previous approval; or
- for the approval of an application when existing tenure has been converted to a new form of tenure, however subsequent approval is required on the new tenure. This will only apply when it is demonstrated the activities are the same as those previously authorised on the area. For example, assessment of Programme of Work application when a Prospecting or Exploration Licence is converted to a Mining Lease, however the Programme was previously approved on the preceding tenure.

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

Stand-by costs being borne by applicants mobilising equipment to site in anticipation of an approval is not an adequate reason for DMIRS to prioritise an assessment.

5. Decision making on environmental applications

DMIRS will approve an application if it meets all the legislative requirements and adequately demonstrates that any environmental impacts can be managed appropriately, including the ability for the activity to be appropriately closed, decommissioned and rehabilitated.

DMIRS may not approve an environmental application 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 grounds².
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 of the decision on their application. If the decision maker decides to refuse the application, the notification will identify the reasons for that decision.

²Different applications have different environmental factors and objectives that are considered by the decision maker, including factors regarding closure and rehabilitation. For example, the published *Environmental Objectives for Mining Proposals*. See DMIRS website for more information about environmental considerations for different applications.

6. GLOSSARY

Accept	An environmental application is accepted for assessment when it passes the requirements of screening at the lodgement phase. Screening 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.
Decline to Accept	For the purposes of this document, this term is used to reflect a decision that a submitted document does not meet the relevant legislative requirements, or is impacted by the constraints listed in Table 1, and hence cannot be accepted for assessment.
Lodgement	The submission of an application to the department for assessment.
Refuse	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 policies/objectives, or is otherwise not environmentally acceptable. In such instances, no approval will be granted.
Screening	A preliminary review of the application to ensure it meets the relevant legislative requirements, or whether it is impacted by the constraints listed in Table 1.
Title/Tenure/Instrument	The appropriate tenure, permit, licence, lease, access authority etc. which grants access to the land to undertake the proposed activity.
Withdraw	An environmental application can be requested to be withdrawn by the applicant. This can occur at any time in the screening or assessment process.

Document Hierarchy

Legislation	<i>Mining Act 1978 (WA)</i> <i>Petroleum (Submerged Lands) Act 1982 (WA)</i> Petroleum (Submerged Lands) (Environment) Regulations 2012 <i>Petroleum and Geothermal Energy Resources Act 1967(WA)</i> Petroleum and Geothermal Energy Resources (Environment) Regulations 2012 <i>Petroleum Pipelines Act 1969 (WA)</i> <i>Petroleum Pipelines (Environment) Regulations 2012</i>
Statutory Documents	Statutory Guidelines for Mining Proposals Statutory Guidelines for Mine Closure Plans
Policy	Environmental Regulatory Strategy Environmental Objectives Policy for Mining Programme of Work – Prospecting Policy
Guidelines	Mining Proposal Guidance – How to prepare in accordance with Part 1 of the <i>Statutory Guidelines for Mining Proposals</i> Mine Closure Plan Guidance – How to prepare in accordance with Part 1 of the <i>Statutory Guidelines for Mine Closure Plans</i> 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

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1.0	May 2020	

Government of Western Australia

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