



Environmental Applications Administrative Procedures

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

Version 5 – June 2023

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

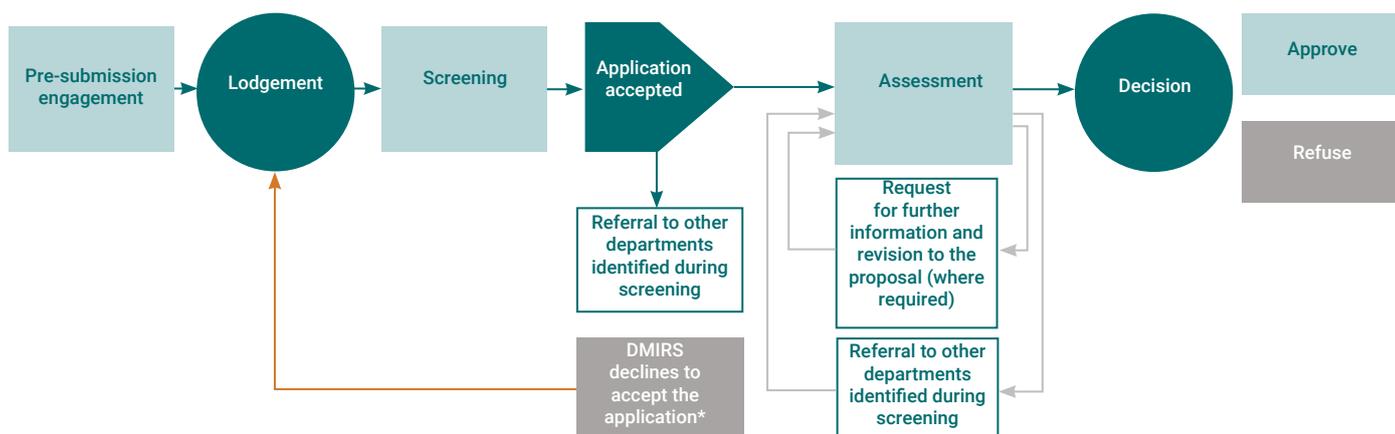
The procedure's objectives are to:

- provide a clear and consistent approach to the screening and assessment of environmental applications that affords procedural fairness
- ensure we have the information we need to assess applications in a timely manner and that decisions are clear, well-founded, reasonable, fair and based on relevant information
- make our assessment procedures and timeframes transparent for the benefit of industry, stakeholders and the community.

Scope

This procedure applies to all environmental applications that our Resource and Environmental Compliance Division assesses 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 that are delegated to us 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. Go to www.dwer.wa.gov.au for more information.



*When we decline to accept an application, the application will need to be revised and return to the lodgment step.

PROCEDURE

1. Pre-submission engagement

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

For mining proposal applications, view our scoping template in [Mining Proposal Guidance – how to prepare in accordance with Part 1 of the Statutory Guidelines for Mining Proposals](#). This will help to prepare early discussions with us.

2. Lodgement

Prior to lodging, applicants need to ensure that their application meets all the form and content requirements that the relevant legislation or statutory guidelines specify. Applications must include all the necessary supporting information required for an appropriate environmental assessment to be completed. Guidance on the information requirements can be found on our [website](#).

Mining Proposals, Environmental Plans and Programmes of Work are submitted online. Programme of Work – Prospecting applications may be submitted by mail, over the counter at any DMIRS office or online via [DMIRS Submissions](#). Go to our [website](#) for more information on the specific lodgement methods and requirements of each application type.

3. Screening

Once an environmental application has been lodged, we will screen it to ensure the document meets our requirements so the assessment process can begin.

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 outside the legislated purpose of the granted tenure/title, or is not permitted on the relevant tenure/title. Where the applicant is a third party and they do not have the tenement holder's authority 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 us to accept the application for assessment. Where the tenement intersects with private land, surface rights must be granted before a PoW application can be submitted. If the tenement is located within an Indigenous Land Use Agreement (ILUA) area and required by tenement condition, prior to the submission of a PoW a statutory declaration must be provided as evidence that the licensee has entered into a Heritage Agreement with the relevant ILUA people. |
| Mining Proposal (MP) | Primary tenure (i.e. a mining lease) for the mine must be in place for us to accept the application (except where the MP is submitted accompanying a Mining Lease application, as s.74 of the <i>Mining Act 1978</i> provides for). ¹ Applications can be received while the application for a miscellaneous licence or general purpose lease have been lodged but are still pending approval (note we cannot approve an MP until all tenure is granted). Where the MP intersects with private land, surface rights must be granted before a MP application can be submitted. |
| 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. The instrument holder must write to the Minister with the contact details of the activity's operator. This must be before or when the EP is first submitted. We will only assess draft EPs concurrently with the title application when a title transfer is occurring or for special prospecting authorities. |

4. Assessment procedures

For fairness and equity, we endeavor to assess all environmental applications in the order in which they are received. All applicants can view the status of their environmental application on our 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 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, we 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, we will terminate the assessment and refuse the environmental application.

If an applicant's response does not adequately address the request for further information, we 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

We may refer the application or ask other government departments for advice if:

- the assessing officer deems it appropriate
- when we need expert information to inform our decision-making
- as required by a memorandum of understanding or administrative agreement with the relevant department.

When we make referrals to other departments or ask for advice, this is also a 'stop-the-clock' event.

The memoranda of understanding and administrative agreements we have with other government departments, including any specific referral triggers and timeframes, on our website.

4.3 Target timeframe

We have target timeframes to determine the outcome of environmental applications under assessment, 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) | Current: 80% within 30 business days 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 |

¹ DMIRS may accept applications ahead of the grant of primary tenure if that grant is constrained due to a referral and/or assessment under Part IV of the Environmental Protection Act 1986. The precise circumstances of when this can occur, and timing of any such submission will be agreed on a case-by-case basis.

All timelines have 'stop-the-clock' events. This mechanism ensures our assessment time does not include the time taken by other processes outside our control. For example, referrals to other departments for advice, or the time applicants take to provide further information, are not counted as part of our assessment time. In relation to referrals to other departments, we 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

We are committed to parallel processing environmental applications for projects that need multiple approvals. We will conduct parallel processing where we can assess separate environmental applications concurrently, and/or where different departments can assess the same environmental application concurrently, when appropriate to do so. That is, we 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 involved
- applicants can provide the required information.

In some circumstances we may undertake parallel processing but reserve our final decision until the resolution of any matters in relation to other legislative requirements. Table 3 describes the relevant constraints for DMIRS. 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 we will reserve our decision on environmental applications subject to parallel processing until resolution of matters from other regulatory authorities or departments

| Application type | DMIRS will conduct parallel assessment, but withhold our decision on applications when: | Evidence we require ² |
|--------------------------------|---|--|
| Programme of Work (PoW) | i. we are waiting on a decision by the Environmental Protection Authority (EPA) about referral, or an assessment decision by the Minister for Environment, under Part IV of the <i>Environmental Protection Act 1986</i> (including any appeals process relating to these decisions). | Notification from the Minister 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 is required by condition of tenement. | Correspondence from the other department confirming that consultation and/or agreement has been met. |
| | iii. we must see the Minister's consent for activities on reserves or other restricted lands. | Notification of Ministerial consent. |
| Mining Proposal (MP) | i. we are waiting on a decision by the EPA about 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 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 is required by tenement or title condition. | Correspondence from the other department confirming that consultation and/or agreement has been met. |
| | iii. we must see the Minister's consent for activities on reserves or other restricted lands. | Notification of Ministerial consent. |
| | iv. we are waiting on the grant of the Mining Lease (ML) where the mining proposal is submitted accompanying a mining lease application as s.74 of the <i>Mining Act 1978</i> provides for, or other relevant tenure for other mining proposals. | |

² This refers to the information we need before we will approve an application (as relevant to the proposal).

| Application type | DMIRS will conduct parallel assessment, but withhold our decision on applications when: | Evidence we require ² |
|-----------------------------------|---|--|
| Environment Plan (EP) | i. we are waiting on a decision by the EPA about 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 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 and we are waiting on advice about potential impacts. | Correspondence from the Marine Parks and Reserves Authority advising the proposal will not have an adverse impact on the Marine Park. |
| | iii. we must see the Minister's consent for entry on reserves or other restricted lands. | Notification of Ministerial consent. |
| | iv. we are waiting on transfer of a title, where the EP has been submitted concurrently with an application to transfer a title. | |
| | v. we are waiting on grant of a title where the EP is submitted concurrently with an application for a special prospecting authority. | |
| Oil Spill Contingency Plan | i. we are waiting on a decision by the EPA about 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. |

4.5 Urgent assessments

We 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 us 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.

A decision to prioritise assessments will not compromise the quality of the decision made by us.

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

5. Decision-making on environmental applications

We will approve your application if it meets all the legislative requirements and adequately demonstrates that you can manage any environmental impacts appropriately, including your ability to close and decommission the activity and rehabilitate the site.

We may not approve your environmental application if one or more of the following circumstances occur:

1. It does not meet the relevant legislative requirements
2. It is not acceptable on environmental grounds³
3. You have been given an opportunity to submit further information and the decision-maker still considers the application is deficient.
4. You have been asked to submit further information and not done so by the required date.

You can withdraw your environmental application at any time.

You will receive our decision on your application in writing. If the decision-maker decides to refuse the application, we will tell you the reasons.

³ Different applications have different environmental factors and objectives that the decision-maker considers, including factors relevant to closure and rehabilitation. For example, the published *Environmental Objectives for Mining Proposals*. See our 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. For simplicity we sometimes refer to applicants as 'you' in this document. |
| Application | This is an environmental-based submission document regulated under the legislation administered by the department's Resource Environmental Compliance Division. |
| Approval | This is the application approval granted by the relevant decision-maker. This permits the proposed activity in the environmental application submitted to the department. The applicant must undertake the activity 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 a department officer with appropriate qualifications and training to assess environmental applications lodged in accordance with legislation administered by the department. |
| Decision-maker | A department officer 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, we use this term to reflect a decision that a submitted document does not meet the relevant legislative requirements, or the constraints listed in Table 1 apply, and hence we cannot accept it for assessment. |
| Lodgement | When an application is submitted to the department for assessment. |
| Refuse | For the purposes of this document, we use this term to reflect a decision-maker's conclusion (on completion of an assessment) that an environmental application is unacceptable because it does not comply with the relevant legislation or department policies/objectives, or is otherwise not environmentally acceptable. In such cases, approval will not be granted. |
| Screening | A preliminary review of the application to ensure it meets the relevant legislative requirements, or to discover whether the constraints listed in Table 1 apply. |
| 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 applicant can request withdrawal of an environmental application. This can occur at any time in the screening or assessment process. |

Document hierarchy

| | |
|----------------------------|--|
| Legislation | <p><i>Mining Act 1978 (WA)</i></p> <p><i>Petroleum (Submerged Lands) Act 1982 (WA)</i></p> <p>Petroleum (Submerged Lands) (Environment) Regulations 2012</p> <p><i>Petroleum and Geothermal Energy Resources Act 1967 (WA)</i></p> <p>Petroleum and Geothermal Energy Resources (Environment) Regulations 2012</p> <p><i>Petroleum Pipelines Act 1969 (WA)</i></p> <p>Petroleum Pipelines (Environment) Regulations 2012</p> |
| Statutory Documents | <p>Statutory Guidelines for Mining Proposals</p> <p>Statutory Guidelines for Mine Closure Plans</p> |
| Policy | <p>Environmental Regulatory Strategy</p> <p>Environmental Objectives Policy for Mining</p> <p>Programme of Work – Prospecting Policy</p> |
| Guidelines | <p>Mining Proposal Guidance – How to prepare in accordance with Part 1 of the <i>Statutory Guidelines for Mining Proposals</i></p> <p>Mine Closure Plan Guidance – How to prepare in accordance with Part 1 of the <i>Statutory Guidelines for Mine Closure Plans</i></p> <p>Guideline for the Development of Petroleum or Geothermal Environment Plans in Western Australia – November 2016</p> <p>Guideline for the Development of an Onshore Oil Spill Contingency Plan – July 2016</p> |
| Procedures | This document |

Version history

| Version | Date | Changes |
|---------|---------------|---|
| 1.0 | April 2020 | |
| 1.1 | August 2021 | Clear guidance language updates. |
| 1.2 | February 2022 | Updates to reflect the amendments made to the Mining Rehabilitation Fund (MRF) Regulations in 2021. |
| 1.3 | March 2023 | Operational updates for urgent assessments. |
| 1.4 | June 2023 | Minor administrative changes to reflect incoming <i>Aboriginal Cultural Heritage Act 2021</i> . |

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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