



Guidelines for Mining Proposals in Western Australia

Department of Mines and Petroleum

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About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia funded by its member companies, which generate 95 per cent of the value of all mineral and energy production and employ 80 per cent of the resources sector workforce in the state.

The Western Australian resources sector is diverse and complex, covering exploration, processing, downstream value adding and refining of over 50 different types of mineral and energy resources.

In 2014-15, the value of Western Australia's mineral and petroleum production was \$99.5 billion. Iron ore accounted for approximately \$54 billion of production value to be the state's most valuable commodity. Petroleum products (including LNG, crude oil and condensate) followed at \$24 billion, with gold third at \$9 billion.¹

Notwithstanding the recent decline in the price of several export commodities, the estimated value of royalty receipts the state received from the resources sector still composed over 16 per cent of estimated total state revenue in 2015-16, or around \$4.4 billion.²

As at September 2015, there was approximately \$171 billion in resources sector projects committed or under construction in Western Australia and a further \$110 billion in proposed or possible projects.³

Recommendations

CME recommends:

Mining Proposals to support Mining Lease Applications

- The Department of Mines and Petroleum (DMP) Industry Reference Group for the Mining Proposal Reform review the use of "*a statement and mineralisation report to support a tenement application*" to ensure proponents are not restricted when applying for larger mining leases for supporting infrastructure.

Environmental Group Site details

- DMP review all Environmental Group Sites to ensure tenements have been appropriately assigned to each group.
- The Guidelines are updated to allow proponents to select the individual tenements to be grouped together as an Environmental Group Site.

Activity Details

- Section 3.5.1 is updated to include the following footnote explicitly within the body of the paragraph: "*Proponents can provide a polygon area that is larger than the proposed area of the Key Mine Activity in order to provide flexibility. However the risk assessment must account for all factors within the designated area.*"

¹ Department of Mines and Petroleum (DMP), 2015, *Mineral and Petroleum Industry 2014-15 Review*, www.dmp.wa.gov.au/1525.aspx, p. 1

² Government of Western Australia, 2015, *2015-16 Budget, Budget Paper No. 2 Volume 2*, www.ourstatebudget.wa.gov.au/Budget-Papers, pp. 541 & 593

³ DMP, 2015, *loc. cit.*

Environmental Outcomes and Reporting

- DMP update the Guidelines to ensure commitments previously approved by the Mining Proposal are maintained when a proponent transitions to the new Mining Proposal format.
- DMP update the Guidelines to clarify the expectations for the stakeholder engagement and baseline data when a proponent transitions from an already approved Mining Proposal to the new format.

Appendix D – Revision and Variation Process

- DMP delete Point 6 of Appendix D and replace with the following statement: “*A new Miscellaneous Mine Activity located outside of the approved envelope and poses a moderate to high risk (pre-treatment).*”
- The requirement for proponents to notify DMP of any reportable incident within 24 hours of detection is amended to 3 business days following detection.

Other Issues

- DMP conduct all necessary tests to ensure the new online system for lodging Mining Proposals is capable of processing applications with multiple tenement packages prior to broader roll-out.

Context

CME welcomes the opportunity to review and provide comment on the Department of Mines and Petroleum (DMP) *Guidelines for Mining Proposal in Western Australia* (the Guidelines).

The Guidelines are an essential component of the DMP's Reforming Environmental Regulation (RER) program, establishing a risk and outcome-based framework for environmental assessment and management of mining activities.

The Guidelines also propose several changes to improve the clarity of approvals and reduce unnecessary regulatory burden which is supported by CME. This includes:

- Moving to an 'activity-based' approval, rather than regulation against every section of a Mining Proposal document;
- Each mine having only one approved Mining Proposal at any one time;
- Allowing for an appropriate level of flexibility in the approval to promote innovation and continuing improvement with best practice; and
- Preventing unnecessary minor amendments having to be formally proposed and assessed.

CME supports the Guidelines, however, recommend consideration of several matters outlined below.

Mining Proposals to support Mining Lease Applications

Currently, a Mining Proposal may be submitted to support the application of a mining lease under Section 74(1) (ca) of the *Mining Act 1978* (Mining Act). However, Section 1.4.1 of the Guidelines states "*In circumstances where the proponent does not have secured access to the land, it is likely to be difficult to complete a Mining Proposal that meets the requirements of these guidelines*" which suggests proponents will not be able to submit a Mining Proposal to support a mining lease application.

Alternatively, "*DMP recommends that the proponent uses a statement and mineralisation report to support the tenement application.*"

The "*statement*" sets out information regarding the mining operation likely to be carried out including:

- When mining is likely to commence;
- The most likely method of mining; and
- The location, and the area, of land that is likely to be required for the operation of the plant, machinery and equipment and for the other activities associated with those mining operations.

CME is concerned an unintended consequence of this new approach will be a significant restriction to mining lease applications given the mineralisation report focuses on the area where mineralisation is located and the statement may not allow the proponents to fully justify the land required for supporting infrastructure.

To ensure these restrictions are minimised, CME considers the Industry Reference Group for the Mining Proposal Reform should review whether the use of a statement and mineralisation report to support the tenement application will restrict proponents applying for larger mining leases to allow for supporting infrastructure.

CME recommends the DMP Industry Reference Group for the Mining Proposal Reform review the use of "*a statement and mineralisation report to support a tenement application*" to ensure proponents are not restricted when applying for larger mining leases for supporting infrastructure.

Environmental Group Site details

An Environmental Group Site is a grouping of individual tenements that make up a particular mining project. CME has received feedback indicating problems have been encountered with the setup of the Environmental Group Sites and associated tenements. Examples have been provided showing tenements are missing or assigned to the wrong Environmental Group Site. Some companies have experienced lengthy delays in getting these issues fixed by DMP.

To date, this has made it difficult for companies to lodge reports using the DMP's online systems, resulting in many being submitted after the due date despite efforts to achieve the specified deadline. CME is concerned this issue will continue with the roll-out of an online system for the new Mining Proposal format unless DMP re-examines the Environmental Group Sites and moving forward, allow proponents to select the tenements to be grouped together as an Environmental Group Site.

CME recommends DMP review all Environmental Group Sites to ensure tenements have been appropriately assigned to each group.

CME recommends the Guidelines are updated to allow proponents to select the individual tenements to be grouped together as an Environmental Group Site.

Activity Details

CME supports the approach outlined in the Guidelines which allows proponents to use an “*activity envelope*” to record the individual activities for which the proponent is seeking approval. For an activity referred to as a ‘Key Mine Activity’, proponents must provide a specific spatial location.

Section 3.5.1 includes a footnote which states “*Proponents can provide a polygon area that is larger than the proposed area of the Key Mine Activity in order to provide flexibility. However the risk assessment must account for all factors within the designated area.*”

CME considers this footnote is critical to prevent unnecessary minor amendments requiring reassessment and the text should be explicitly stated within Section 3.5.1.

CME recommends Section 3.5.1 is updated to include the following footnote explicitly within the body of the paragraph: “*Proponents can provide a polygon area that is larger than the proposed area of the Key Mine Activity in order to provide flexibility. However the risk assessment must account for all factors within the designated area.*”

Environmental Outcomes and Reporting

The Guidelines introduce the requirement for proponents to outline specific environmental outcomes relevant to the environmental factors which may be impacted by the proposed activity. The environmental outcomes are “*the acceptable level of impact that must not be exceeded or a level of protection/performance/result that must be achieved for the site to be considered compliant*”.

The purpose of setting outcomes is to provide agreement between the proponent and DMP as to the level of environmental impact that is predicted and considered acceptable.

For historical Mining Proposal and Notice of Intent (NOI), meeting the DMP's environmental objectives specified in Table 1 of the Guidelines will be challenging and in some cases, unachievable. For example, waste landforms constructed to acceptable standards set out by the Department at that time but do not meet modern standards.

The DMP has publicly stated⁴ the Guidelines are not intended to make it more difficult for proponents to achieve the environmental objectives (i.e. 'move the goalposts' for already approved projects). However, this is not explicitly stated within the Guidelines and CME is concerned the mining industry will be required to comply with a higher level of performance when submitting revised Mining Proposals.

CME recommends DMP update the Guidelines to ensure commitments previously approved by the Mining Proposal are maintained when a proponent transitions to the new Mining Proposal format.

The transition of historically approved Mining Proposal to the new format also presents a number of issues for the stakeholder engagement and baseline data requirements outlined in the Guidelines. For older established sites, it will be difficult for proponents to document the stakeholder engagement since the project commenced. The requirement for proponents to submit baseline data is also difficult for older sites and may result in a lengthy, unwieldy document.

CME recommends DMP update the Guidelines to clarify the expectations for the stakeholder engagement and baseline data when a proponent transitions from an already approved Mining Proposal to the new format.

Appendix D – Revision and Variation Process

Proponents are required to record the activities for approval using the standard list of Mine Activity Types shown in Table 2 of the Guidelines. The activity envelopes will provide flexibility for proponents to make minor amendments to the exact location of 'Miscellaneous Mine Activities'. However, Appendix D of the Guidelines will require proponents to revise and resubmit the Mining Proposal in circumstances where:

- A new activity or change to an activity type is proposed.

This approach will result in any new 'Miscellaneous Mine Activity' (not previously approved by the Mining Proposal) triggering reassessment.

For example, a proponent requires a borrow pit during construction which can be sourced within the activity envelope, however, "*Borrow pit or shallow surface excavation*" was not included on the approved Mining Proposal.

CME considers the requirement to reassess as a result of a new 'Miscellaneous Mine Activity' should be limited to circumstances where the new activity is outside of the activity envelope, poses a moderate to high risk (pre-treatment) and would therefore change the environmental outcome.

CME recommends DMP delete Point 6 of Appendix D and replace with the following statement: "A new Miscellaneous Mine Activity located outside of the approved envelope and poses a moderate to high risk (pre-treatment)."

The Guidelines state "*Mining Proposals will be subject to a standard condition requiring proponents to notify DMP of any reportable incident within 24 hours of detection.*"

The failure to notify DMP of a reportable incident would be a breach of condition and the mining tenements would be subject to forfeiture under the Mining Act which and is a matter taken very seriously by the mining industry.

CME is concerned the requirement for proponents to notify DMP of incidents within 24 hours of detection doesn't afford enough time for proponents to collate the necessary information required to determine if the incident is a 'reportable incident'. CME considers a longer timeframe of 3 business days to notify the DMP is required.

⁴ DMP Environmental Reform Stakeholder Briefing Sessions (Perth and Kalgoorlie), 4-5 November 2015

CME recommends the requirement for proponents to notify DMP of any reportable incident within 24 hours of detection is amended to 3 business days following detection.

Other Issues

Online Systems

DMP has implemented the Environmental Assessment and Regulatory System (EARS) to streamline submitting and tracking of environmental applications, and compliance reporting. Online lodgement via EARS is now compulsory for the mining industry and DMP have made a commitment for all customer transactions to be conducted online by mid-2016.

The roll-out of the online systems has resulted in a number of issues for the mining industry. A number of proponents have faced difficulties with inputting data or submitting applications which has resulted in delays or increased internal resourcing requirements to lodge reports.


Given DMP's intent to implement a new online system for the lodgement of Mining Proposals in the new format, CME considers it essential for DMP to complete tests on sites with multiple tenement packages prior to roll-out more broadly to ensure Information Technology issues are minimised as much as possible.

CME recommends DMP conduct all necessary tests to ensure the new online system for lodging Mining Proposals is capable of processing applications with multiple tenement packages prior to broader roll-out.

Conclusion

CME welcome the opportunity to review and provide comment on *the Guidelines for Mining Proposals in Western Australia*. We look forward to working with the DMP on delivering a risk and outcome-based regulatory framework.

If you have any further queries regarding the above matters, please contact Kirrillie Caldwell, Policy Adviser - Environment, on (08) 9220 8507 or k.caldwell@cmewa.com.

Authorised by	Position	Date	Signed
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