

To: Department of Water and Environmental Regulation

Re: Draft Guideline – Native Vegetation Referrals

30 July 2021

Introduction

AMEC appreciates the opportunity to provide a submission to the Department of Water and Environmental Regulation (DWER) consultation on the draft Guideline – Native Vegetation Referrals. This is a new introduction to the environmental process, arising from the *Environmental Protection Amendment Act 2020* (EP Amendment Act).

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry body representing over 400 member companies across Australia, with the majority having project interests in Western Australia. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people, and in 2018/19 collectively paid over \$39 billion in royalties and taxation. In 2019/20 resources companies invested \$35 billion in new capital and generated more than \$176 billion in mineral exports. \$2.8 billion was spent on minerals exploration in 2019/20, representing an 18% increase from the previous year.

Draft Guideline – Native Vegetation Referrals

General feedback

The development of this draft Guideline and its intent is supported by AMEC. The provision of clear, high quality, non-statutory guidance should assist prospective applicants for native vegetation clearing permits with their applications and navigating the clearing referral process.

The EP Amendment Act introduced a new referrals process for proposed native vegetation clearing activities as per s.51DA. This draft guideline will only apply for Part V referrals, which are likely to have very low environmental impacts. It is noted that Part IV referrals, likely to have significant impacts, will continue to be regulated by the Environmental Protection Authority (EPA).

Delegated statutory authority

AMEC welcomes the clarity provided on Page 2 of the Draft, that DMIRS is the delegated statutory authority under s.20 of the EP Act, to receive, assess and determine applications for clearing permits relating to 'mineral and petroleum activities' regulated under the *Mining Act 1978*.

This is a positive inclusion that will provide Industry, interested parties, and regulator with confidence about who will receive their applications, even in the event they are sent to DWER, that they will be

transferred to DMIRS. One regulatory body having designated authority over these permits is expected to provide more certainty to this process.

The inclusion of a hyperlink to the appropriate section of the DMIRS website for native vegetation clearance would be helpful.

Definition of 'significant'

AMEC has previously raised concerns with the definition of significance through the EPA's recent Environmental Impact Assessment (EIA) Procedures Manual consultation process, that remain relevant for the determination of what may be considered 'significant' for the purposes of this Guideline. It is important that this definition is consulted on, so we can understand the impact this will have on a number of processes Industry complies with.

There is an opportunity through this process to encourage proponents to utilise the correct referrals process for native vegetation in the first instance. Their ability to do so, will be impacted by the definition of significance.

Data

The draft Guideline states that the consideration of the area proposed to be cleared will rely on data from IBRA and the DPIRD-006 dataset. Is this information current and regularly updated?

It is important that the data used in the determination of an application's outcome is current and an accurate representation of the actual land in question. Given the majority of mineral exploration and mining is located in remote, regional areas, the ability of this information to be regularly updated can be challenging. We would not want this to halt the determination, or result in a risk-averse approach to regulation.

Section 3.8 What happens after the department has made its decision?

While anticipated this is an oversight rather than a skipped step in the process, AMEC recommends adding information to this section, that applicants will be notified directly by the Department, the outcome of their application.

It is implied in 3.7 that applicants should wait until the relevant department notifies of its decision, but 3.8 skips to the referral and referral outcome being published on the relevant Department's website, without first informing the applicant. We recommend the draft Guideline aligns with the Department's website, which as per the last updated on 18 December 2020, lists all the steps in the process.

Clarity of carbon farming, offsets and the Strategic Assessment of the Perth and Peel region.

The Guideline does not refer to how carbon farming, defined offsets, or the Strategic Assessment of Western Australia's Perth and Peel Regions (SAPPR) are treated and interact with the native vegetation clearance approval process. Additional clarity as to how these considerations are managed will increase the transparency and useability of the guidance.

DMIRS: Low impact notification

DMIRS have recently concluded consulting on the Streamlining (Mining Amendment) Bill 2021, which includes provision for low impact notification which will allow a notification process for native vegetation in restricted circumstances. Depending on the publication date of this guidance, a future version will need to include information of how this is managed and related to the information in the document.

Examples

Similar to previous feedback we have provided to the Department, AMEC recommends and would welcome the provision of examples of what a good application looks like. This will enable both experienced and less experienced applicants to understand and meet the expectations of the Department in the first instance.

Hierarchy of Documents

Industry remains conscious that the improvements that came from the Quinlan Review such as the document hierarchy must be continued. The inclusion of a clear table within the Guideline under the section 'Document Implementation' that clarifies that the guidance is not to be considered statutory guidance and identifies its comparative priority to the legislation will remove all future possibilities of ambiguity.

Final comment

AMEC continues to welcome opportunities to engage with the Department as regulatory reforms are undertaken, and guidance material is prepared. The higher the quality of the guidance material, the more aligned regulator and Industry understanding can be.

For further information contact:

Neil van Drunen

or

Samantha Panickar

Director - WA, SA, NT & Industry Policy

Senior Policy Adviser

AMEC

AMEC

0407 057 443

08 9320 5150