



Memorandum of Understanding for Collaborative Arrangements

between

The Office of the Environmental Protection Authority

and

The Department of Mines and Petroleum

Addendum June 2019:

As per the recommendations of the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia Final Report to the Western Australian Government (2018), all applications for onshore hydraulic fracture stimulation exploration and production proposals will be referred to the Environmental Protection Authority (EPA) for assessment under the *Environmental Protection Act 1986*. When a proposal is referred to the EPA, the EPA decides if the proposal should be assessed and, if so, the level of assessment.

Statement of Intent

This Memorandum of Understanding (MOU) is made between the Office of the Environmental Protection Authority (OEPA) and the Department of Mines and Petroleum (DMP) (the Parties).

The MOU confirms the principles of a valued and constructive working relationship between the Parties and establishes working arrangements for effective and efficient co-operation, to meet their statutory and other responsibilities.

The practical intent of the MOU is to agree on:

- a) strategic principles that underpin a strong collaborative partnership; and
- b) operational arrangements so that the Parties can plan the provision of resourcing, services and advice in order to meet respective roles and responsibilities.

In establishing this MOU, the Parties undertake to engage in a cooperative manner through consultation, open communication and collaboration at a strategic and operational level to protect and conserve the environment.

1. Purpose

The purpose of this MOU is to outline principles that will foster a strong partnership and develop collaborative working arrangements between the Parties so that each Party can deliver its roles and responsibilities effectively and efficiently. Specifically the MOU covers:

- a) defining the respective roles and responsibilities of the Parties;
- b) principles that will foster a strong partnership between the Parties; and
- c) collaborative working arrangements that support efficient and effective environmental impact assessment (EIA) processes, implementation of DMP roles, and development of environmental policy.

In implementing the MOU the Parties will take account of the State Government's focus on improving assessment and approvals for major projects, including mineral, petroleum and geothermal proposals, by:

- removing overlap and duplication; and
- supporting a clear and consistent risk based approach in EIA processes.

Whilst this MOU is between the OEPA and DMP, the role of the OEPA in supporting the Environmental Protection Authority (EPA) to achieve its statutory objective is acknowledged. This objective is to use best endeavours to protect the environment and to prevent, control and abate pollution and environmental harm. This is achieved by being a credible source of independent public advice on the impact on the environment of significant and strategic proposals and town planning schemes and environmental issues more generally.

The functions of the EPA are described in the *Environmental Protection Act 1986* (EP Act) and include:

- a) conducting EIA;
- b) preparing statutory policies for environmental protection;
- c) preparing and publishing guidelines for managing environmental impacts; and
- d) providing strategic advice to the Minister for Environment.

The EPA considers that public risk and hazards does not fall within purview of matters which it can assess when undertaking the environmental impact assessment of significant or strategic proposals under Part IV of the EP Act.

2. Roles and Responsibilities of the Parties

OEPA

The OEPA was created to support the EPA and work with other departments, industry and the community to ensure environmental values are protected and development is managed in an environmentally responsible manner.

The roles and responsibilities of the OEPA are to:

- a) provide advice and develop policy under Part II and Part III of the EP Act for the EPA and the Minister for Environment;

- b) provide advice to the EPA in conducting EIA under Part IV of the EP Act; and
- c) monitor compliance with Ministerial conditions related to approvals.

DMP

The DMP has lead responsibility for the regulation of mineral, petroleum and geothermal exploration and development activities in Western Australian (both onshore and offshore State waters) in accordance with the legislation below (and associated subsidiary legislation):

- *Mining Act 1978*
- *Offshore Minerals Act 2003*
- *Mining Rehabilitation Fund Act 2012*
- *Petroleum and Geothermal Energy Resources Act 1967*
- *Petroleum Pipelines Act 1969*
- *Petroleum (Submerged Lands) Act 1982*
- *Dangerous Goods Safety Act 2004*
- *Mines Safety and Inspection Act 1994*

As the State's regulator for extractive industries and dangerous goods, DMP works with other government agencies to ensure workers, the community and the environment are protected.

3. Principles for a Strong Partnership

The key principles that form the basis for a strong partnership between the Parties are agreed as follows:

- a) respect for roles;
- b) planning and working cooperatively; and
- c) effective consultation and communication.

Respect for Roles

The Parties acknowledge the statutory roles and other accountabilities of their respective organisations and will use their best endeavours to implement this agreement and any subsequent working arrangements. The key considerations are the:

- separate existence of the two departments;
- independence of the EPA;
- roles of the respective Ministers; and
- arrangements under which each Party may access information, advice and services from the other and more generally from other government agencies and outside sources.

Planning and Working Cooperatively

The Parties will consider the workload implications, for both themselves and the other Party, of providing, exchanging and discussing information and data requests, including processing related to submitting and responding to requests for

information. Where distinct workload pressures emerge, either Party may seek advice from the other Party about prioritising requests for information.

The Parties will plan and work cooperatively by:

- being open, honest and responsive to each other, respecting each other's roles and responsibilities, and assisting and supporting each other whenever possible;
- collaborating on matters of mutual interest for the protection of the environment and promotion of conservation values;
- ensuring relevant strategies and programmes are integrated and complementary;
- optimising the use of resources, information sharing and knowledge management to reduce overlap and avoid duplication; and
- supporting a clear and consistent risk based approach in approval processes.

Effective Consultation and Communication

Effective consultation and communication is recognised as essential to good working relationships between the Parties and will be based on the following principles:

- the Parties valuing a working relationship based on effective communication and good consultative processes with each other and the community;
- the Parties agreeing to collaborate on policy development where relevant and practical;
- the Parties endeavouring to ensure that all public announcements which reference, by name or implication, the role of the other Party are the subject of prior consultation;
- the Parties committing to timely consultation before making decisions that may affect the administration of the other Party's legislation, or role; and
- the Parties recognising the importance of confidentiality to good corporate governance and commit to ensuring the integrity of processes where commercial or other sensitive material is exchanged or discussed.

The Parties recognise that the exchange of information increases the effectiveness and efficiency of the Minister for Environment and the Minister for Mines and Petroleum. Where relevant, the Parties will share information, documents, knowledge and views from a wide range of resources on matters where each Party has specialist expertise.

DMP will provide specialist knowledge and advice to the OEPA based on its recognised expertise in matters relating to mineral, petroleum, and geothermal exploration and development activities.

The OEPA will provide specialist knowledge and advice to DMP based on its recognised expertise in areas relevant to environmental management and impact assessment.

The Parties will consult each other, both informally and through the provision of formal advice. Formal requests for advice from the other Party are to be made in writing. The process for obtaining formal and informal advice and what constitutes advice is set out in the attached Schedules.

4. Policy Development and Decision Making

The Parties agree to consult and communicate on policy development, when identified as a key stakeholder. When an agency finalises a policy for which the other agency is a key stakeholder, the agency that authored the policy will inform the head of the other agency.

Both Parties will endeavour to achieve a complimentary policy suite and aligned decision-making, where appropriate, in areas including, but not limited to:

- support the EPA in developing and applying the EPA's *Environmental Assessment Guidelines* and other EIA framework documents;
- mine closure planning;
- reforming environmental regulation in Western Australia; and
- management of emerging, contentious or complex issues or types of proposals (e.g. natural gas from shale and tight rocks).

5. Commencement, Duration and Review

This MOU will commence from the date it is signed by both Parties and will endure until such time that it is terminated by written notice by either Party.

Either Party may seek to review this MOU at any time; however this MOU is to be reviewed within two years of the commencement date and as required thereafter.

The Parties may appoint a Working Group to monitor and review the operation of this MOU. In the absence of any particular nomination, the signatories will monitor and review the operation of this MOU. The attached Schedules are to be reviewed two years from the date of the commencement of this MOU and thereafter as required.

6. Status

This MOU does not create legally enforceable obligations between the Parties. Rather it supports collaborative and consultative arrangements for the administration of both Parties respective roles and responsibilities and clarifies expectations regarding how the Parties will work together.

7. Use and Release of Information

The Parties recognise that the integrity and accuracy of the information provided under this MOU relies on both Parties implementing and maintaining appropriate recording keeping procedures.

The Parties will maintain the confidentiality of information provided to them in accordance with the requirements of the Party providing that information and to comply with all requirements that govern the use and release of that information.

The Parties will confer on required formatting, licenses and confidentiality of any data provided.

8. Schedules

Schedules may be developed by the Parties to give effect to specific arrangements. Schedules pertaining to this MOU will provide the administrative detail required for particular matters. Schedules will be attached to the MOU and can be updated or revised between the Parties without requiring amendment of the MOU.

Schedule 1 of this MOU provides a list of all Schedules and will be updated as arrangements are completed or revised.

MOU Schedules will be signed by the relevant Director, or nominated delegate, of each of the Parties.

9. Dispute Resolution

The Parties will attempt to resolve any dispute arising in relation to this MOU by negotiation. The Parties agree that dispute resolution will be at the lowest, most informal level practicable.

10. Contentious Issues Management

The Parties will undertake to coordinate advice on contentious issues to the Minister for Environment, the Minister for Mines and Petroleum, and the media.

Where both Parties are involved in an issue, a decision will be made as to which Party will have the lead and respond with advice from both Parties. Final sign-off and transmittal will be from the leading Party following agreement by both Parties (in consultation with media relations officers, where appropriate) with a copy of the final version to be sent to the non-lead Party.

Signed by

Kim Taylor
General Manager
Office of the Environmental Protection Authority
Date: 8/2/16



Richard Sellers
Director General
Department of Mines and Petroleum
Date: 10/2/16



**LIST OF SCHEDULES FOR THE MEMORANDUM OF UNDERSTANDING FOR
COLLABORATIVE ARRANGEMENTS BETWEEN THE OFFICE OF THE
ENVIRONMENTAL PROTECTION AUTHORITY AND THE DEPARTMENT OF
MINES AND PETROLEUM**

Schedule 2	Communication Protocol between the Office of the Environmental Protection Authority and the Department of Mines and Petroleum.	
	For advice to assist the Environmental Protection Authority assessment of major projects, including mineral, petroleum and geothermal proposals under Part IV of the <i>Environmental Protection Act 1986</i> , including pre-referral discussions and post assessment issues including statement management and Environmental Management Plans.	
	Date Approved	10 February 2016
	Status	Current
Schedule 3	Communication Protocol between the Office of the Environmental Protection Authority and the Department of Mines and Petroleum.	
	On compliance with conditions in Implementation (Ministerial) Statements, including: <ul style="list-style-type: none"> 1. Compliance management program and inspection schedules; 2. Information sharing; 3. Complaints and enquiries; and 4. Compliance actions and enforcement. 	
	Date Approved	10 February 2016
	Status	Current

COMMUNICATION PROTOCOL BETWEEN THE OFFICE OF THE ENVIRONMENTAL PROTECTION AUTHORITY AND THE DEPARTMENT OF MINES AND PETROLEUM

For advice to assist the Environmental Protection Authority assessment of major projects, including mineral, petroleum and geothermal proposals under Part IV of the *Environmental Protection Act 1986*

It is recognised by both agencies that close interaction is necessary – both formal and informal – to allow for Department of Mines and Petroleum (DMP) advice to be considered in the environmental impact assessment of major projects, including mineral, petroleum and geothermal proposals under Part IV of the *Environmental Protection Act 1986* (EP Act).

In undertaking environmental impact assessment of proposals under Part IV of the EP Act, the Office of the Environmental Protection Authority (OEPA) applies a risk-based approach as outlined in the *Environmental Assessment Guideline for Application of a significance framework in the environmental impact assessment process* (EAG 9, EPA June 2013) and apply the environmental objectives as described in *Environmental Assessment Guideline for Environmental Factors and Objectives* (EAG 8, EPA, June 2013). Consistent with the EP Act, application of these guidelines ensures that the environmental impact assessment process focuses on those aspects that are likely to result in significant environmental impacts, rather than all environmental impacts. Duplication of assessment and approval processes will also be avoided where there is confidence that an alternative regulatory process can ensure that the environmental objectives for the factor(s) relevant to the proposal can be met.

While informal cooperation between individual officers and individual branches is assumed and expected, formal consultation procedures are detailed below. All requests for formal consultation will occur in writing from:

- The Director Assessment and Compliance, OEPA, to the Executive Director, Environment Division, DMP, or delegate where DMP is a Decision Making Authority (DMA) under Mining/Petroleum Acts, and vice versa;
- The Director Assessment and Compliance, OEPA, to the Executive Director, Environment Division, DMP, or delegate where DMP is a DMA under Mining/Petroleum Acts and Mines Safety/Dangerous Goods Acts, and vice versa; or the
- The Director Assessment and Compliance, OEPA, to the Executive Director, Resources Safety Division, DMP, or delegate where DMP is a DMA under Mines Safety/Dangerous Goods Acts only, and vice versa.

Where a proposal is of State significance or particularly high public interest, the General Manager of the OEPA may write directly to the Director General of DMP with a copy of the letter emailed to the Executive Director, Environment to assist DMP in meeting the requested response timeframe. In some cases a specific

timeframe for the Director General's response may need to be agreed based on consideration of complexity and urgency.

The DMP will encourage proponents of relevant proposals (where there is potential for significant environmental impacts) to consult directly with the OEPA to determine whether referral of the proposal is required.

The OEPA will encourage proponents of relevant proposals to discuss issues directly with DMP throughout the environmental impact assessment process. The extent to which DMP engages in those discussions is a matter for DMP to determine on a case-by-case basis.

Either Party (or proponents as suggested by either Party) may seek informal comment from the other Party on draft documents on a case-by-case basis. The Party will determine the level of response based on potential environmental impacts and risks and available capacity.

Pre-referral Consultation

The Parties will liaise with the other Party (Officer level) at pre-referral stages, where appropriate, in cases where the following consultation criteria are triggered and/or where there is potential for significant environmental impacts:

Onshore Criteria

- Environmentally Sensitive Areas including:
 - Within 500m of World Heritage Property
 - Within 500m of a Bush Forever site
 - Within 500m of a Threatened Ecological Community
 - Within 500m of defined wetlands (including Ramsar wetlands, ANCA wetlands, Conservation category wetlands)
 - Area containing rare flora
 - Area covered by an Environmental Protection Policy.
- Within 500m of a declared/proposed State Conservation Estate, including National Park, Nature Reserve, Conservation Park, or State Forest and Timber Reserves.
- Within a Public Drinking Water Source Area.
- Within 2 kilometres of a declared occupied town site (for Mining Proposals and petroleum Environment Plans only).
- Hydraulic fracturing exploration and development activities.
- Activities within the Strategic Assessment for the Perth Peel Region and potentially in conflict with the outcomes of the Strategic Assessment.
- Area previously or currently subject to formal assessment by the EPA.

Offshore Criteria

- Within 500m of a declared/proposed State Marine Conservation Estate, including Marine Park, or Nature Reserve.
- Wholly or partly within Special Protection Zones of State Marine Management Areas.

- Wholly or partly within a Marine Protected Area other than those managed under the CALM Act, including:
 - Areas protected under the Fish Resources Management Act 1994
 - Areas protected under the Rottneest Island Authority Act 1987
 - World Heritage Property.
- Seismic activity wholly or partly within intertidal zones or shallow waters (<15m) in turtle breeding areas during turtle breeding season.
- Seismic activity wholly or partly located in whale mating/calving areas in the breeding season, or in locations that may affect migrating whales.
- Exploration or appraisal drilling wholly or partly within 3 nautical miles of coast, islands or intertidal reefs.
- Production development and/or pipeline development in State Waters.
- Hydraulic fracturing exploration and development activities.
- Area previously or currently subject to formal assessment by the EPA.

The aim of the consultation is to determine if the activity to which a Programme of Work (PoW), Mining Proposal (MP) or Environment Plan (EP) relates is likely to have a significant impact on the environment and would require formal assessment by the Environmental Protection Authority (EPA). When formal referral is considered appropriate, the OEPA Assessment Officer will consult with the Director Assessment and Compliance Division, before providing confirmation to DMP that formal referral is required.

Furthermore, the OEPA and DMP are joint authors of the *Guidelines for Preparing Mine Closure Plans 2015*. The EPA formally assesses mine closure under Part IV of the EP Act, where mining projects are not subject to the *Mining Act 1978* such as:

- Pre-1899 title or minerals-to-owner tenure;
- Hampton locations;
- Certain State Agreement Act projects; or
- Where the EPA considers that there is significant impact or risk and identifies rehabilitation and closure as a preliminary Key Integrating Factor of a proposal.

Where the EPA concludes that rehabilitation and closure is a Key Integrating Factor in its EPA report on the proposal, the EPA will recommend a condition requiring a Mine Closure Plan to be prepared that is consistent with the above guidelines and may require DMP consultation and advice on certain matters within the Mine Closure Plan.

Referral and Assessment Consultation

The OEPA will consult with DMP at referral, assessment, and post assessment where appropriate, in cases where:

- DMP is a DMA under mining related acts (*Mining Act 1978*, *Offshore Minerals Act 2003*, and the *Mining Rehabilitation Fund Act 2012*);

- DMP is a DMA under petroleum related acts (*Petroleum and Geothermal Energy Resources Act 1967, Petroleum Pipelines Act 1969, and the Petroleum (Submerged Lands) Act 1982*);
- Dangerous goods or safety approval is required (*Dangerous Goods Safety Act 2004, and Mines Safety and Inspection Act 1994*); or
- DMP is considered to be a technical subject matter expert.

The attached Table 1 outlines process, timelines and expected information requirements for consultation throughout each of the stages of the environmental impact assessment process through to post assessment and compliance. The EPA's environmental impact assessment process and DMP's points of interaction are shown in Figure 1.

DMP will provide a consolidated response to the appropriate person in the OEPA (as identified in Table 1). Where DMP determines that comment is not necessary, a response to this effect from the Executive Director, Environment will be provided within the timeframes outlined in Table 1.

Document Distribution

Formal requests for advice and supporting documentation from OEPA to DMP will be sent to the DMP Environment Part 4 email address (environment.part4@dmp.wa.gov.au). For large documents the OEPA will utilise online cloud services to facilitate DMP access to documents.

DMP requests for advice on pre-referral and referral, and DMP responses to OEPA requests for advice will be sent to the OEPA Registrar email address (registrar@epa.wa.gov.au).

Timelines

The Parties will use their best endeavours to meet the timelines for advice outlined in this protocol. Both parties recognise that this may not always be achievable. In these circumstances the Parties will endeavour to accommodate reasonable delays in the provision of advice.

To meet target times for formal advice requests referred to in this document, good communication between OEPA and DMP staff during the assessment process on the progress of assessments and upcoming advice requests will be necessary.

Department of Mines and Petroleum Contact

The Executive Director, Environment of DMP may nominate another DMP contact, other than the Executive Director, Environment, as the point of contact with respect to any specific proposal.

Problem Solving/Escalation of Issues

It is desirable for officers of the OEPA and DMP to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time.

If issues remain unresolved, Managers of the relevant branches of DMP and the OEPA will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the General Manager, OEPA and the Director General, DMP.

Review

Either Party may seek to review these procedures at any time; however these procedures are to be reviewed within two years of the commencement date of this schedule and as required thereafter.



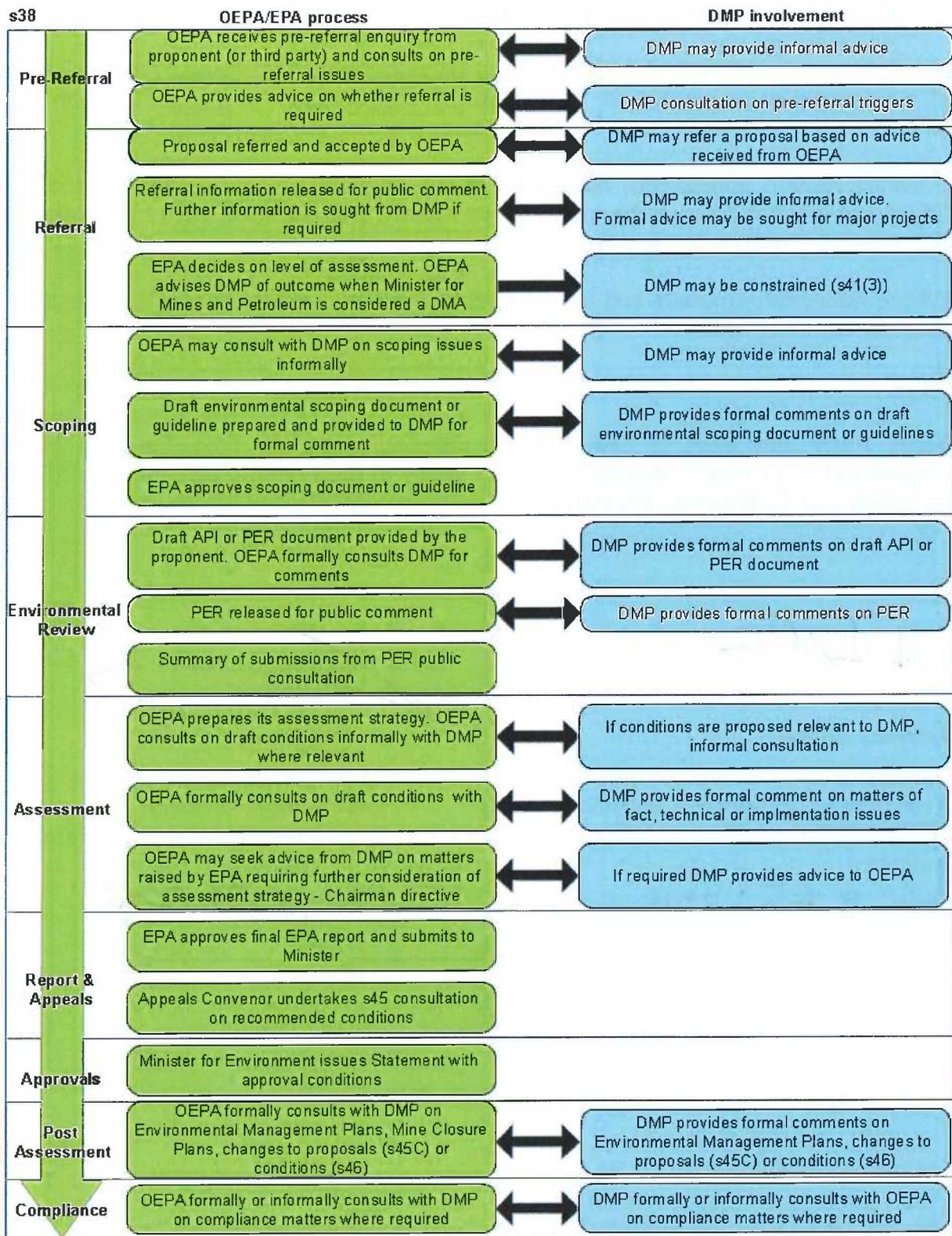
Anthony Sutton
Director
Assessment Compliance Division
Office of the Environmental Protection
Authority

Date: 8 Feb ' 2016



Dr Phil Gorey
Executive Director
Environment Division
Department of Mines and Petroleum

Date: 10 Feb 2016



Consultation will occur where appropriate, in cases where:

- DMP or the Minister for Mines and Petroleum is a Decision Making Authority for a mineral, petroleum or geothermal proposal;
- DMP is considered to be a technical subject matter expert; or
- Compliance related activities requires DMP involvement;

Figure 1 — Part IV Division 1 and 2 OEPA/EPA environmental impact assessment process map and DMP involvement

Table 1: Communications protocol between the Office of the Environmental Protection Authority (OEPA) and the Department of Mines and Petroleum (DMP) for mineral, petroleum and geothermal proposals assessed under Part IV of the *Environmental Protection Act 1986*

Pre-referral to Referral

Stage	Type and timeframe	OEPA addressee and approving officer	Advice sought and information provided	DMP addressee and approving officer	Notes
Consultation on pre-referral issues	OEPA seeking advice from DMP Informal – as required	Assessment Officer	Electronic copies of documents and spatial data where available**. Need for referral to be discussed based on consultation trigger criteria. Email title to include (if OEPA has this information available) tenement number and region for mineral related proposals or include petroleum title number, activity type and location for petroleum/geothermal related proposals.	Assessment Officer	Both Parties will encourage proponents of relevant proposals to consult directly with the other Party. For proposals that are likely to be an API the proponents should consult with DMP at this stage (if not already).
	DMP seeking advice from OEPA on whether to refer Informal – via email (20 days)	Assessment Officer	Electronic copies of documents and spatial data where available**. Information requirements of proposals including maps as agreed. Email title to include tenement number and region for mineral related proposals e.g. Subject: Referral to EPA for tenement P40/1179, Koobyne/Goldfields Email title to include petroleum title number, activity type and location for petroleum/geothermal related proposals e.g. Subject: Referral to EPA for exploration drilling in petroleum permit EP XXX, 50km east of Eneabba	Assessment Officer	Consultation trigger criteria are listed in covering text of this schedule. DMP will encourage proponents of relevant proposals to seek advice from OEPA regarding the referral of a project in an effort to reduce the number of agency to agency referrals. When formal referral is considered appropriate, the OEPA Assessment Officer will consult with the Director, Assessment and Compliance Division, before providing confirmation to DMP that formal referral is required.
Referral of proposal	DMP referring proposal to the EPA for assessment Formal	Director, Assessment and Compliance Division EPA	Electronic copies of documents and spatial data where available**.	Executive Director, Environment Division	DMP refer proposal based on advice received (consultation trigger and/or significance test). If it is agreed that formal referral by DMP is required then referral will be on s38 referral form available on EPA website.
Consultation on referral issues	Either Party seeking advice from the other Party Informal or Formal - 10 business days	Assessment Officer or Director, Assessment and Compliance Division	Electronic copies of documents and spatial data where available**.	Assessment Officer or Executive Director, Environment Division or delegate	

Assessment on Proponent Information (API)

Stage	Type and timeframe	OEPA addressee and approving officer	Advice sought and information provided	DMP addressee and approving officer	Notes
Scoping issues	OEPA seeking advice from DMP Informal – as required	Assessment Officer	Electronic copies of documents and spatial data where available**.	Relevant Team Leader	
Draft scoping guideline	OEPA seeking advice from DMP Formal – 15 business days	Director, Assessment and Compliance Division or delegate	Formal request with electronic copies of documents and spatial data where available**. Does the Scoping Guideline identify: <ul style="list-style-type: none"> • The work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met. 	Executive Director, Environment Division or delegate when DMP is DMA under Mining/Petroleum Acts only Executive Director, Environment Division or delegate when DMP is DMA under Mining/Petroleum and Mines Safety/Dangerous Goods Acts Executive Director, Resources Safety Division or delegate when DMP is DMA under Mines Safety/Dangerous Goods Acts only	Scoping guidelines are not required where factors have been adequately addressed in the proponent's Draft API document.
Draft environmental review document (the proposal)	OEPA seeking advice from DMP Formal – 15 business days	Director, Assessment and Compliance Division or delegate	Formal request with electronic copies of documents and spatial data where available**. Advice is requested regarding: <ul style="list-style-type: none"> • Whether the API document meets the requirements of the scoping guideline; and/or • Whether information presented is factually correct and proposed management is adequately defined; • Where information is inadequate, provide advice on what is required together with Mines and Petroleum reasons, in descending order of importance; • The significance of the predicted impacts; • The adequacy of the proponent's proposed mitigation and management; and • Any other issues the EPA should consider in making its decision. • 	Executive Director, Environment Division or delegate	The OEPA expects proponents to engage in consultation with DMP where the department is interested in or affected by their proposals, to address any outstanding matters of concern prior to formal document submission to the OEPA. The proponent should provide a copy of DMP's written advice to the proponent, at the time of submission to the OEPA.

Draft conditions	API	OEPA seeking advice from DMP Formal – 5 business days	Director, Assessment and Compliance Division	Formal request with electronic copies of documents. Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Executive Director, Environment Division or delegate	The OEPA may consult informally with the DMP Executive Director, Environment Division, or delegate, or Assessment Officer during the development of draft environmental conditions. Where possible, the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.
-------------------------	-----	--	--	---	--	---

Public Environmental Review (PER)

Stage	Type and timeframe	OEPA addressee and approving officer	Advice sought and information provided	DMP addressee and approving officer	Notes
Scoping issues (EPA prepared scope)	OEPA seeking advice from DMP Informal – as required	Assessment Officer	Electronic copies of documents and spatial data where available**. Advice regarding: <ul style="list-style-type: none"> The relevant preliminary key environmental factors; Work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA’s objectives could be met; and The relevant policy context. 	Relevant Team Leader	
Draft scoping document (prepared by proponent)	OEPA seeking advice from DMP With Public Review Period: Formal – within public review period Without Public Review Period Formal – 10 business days	Director, Assessment and Compliance Division or delegate	Formal request with electronic copies of documents and spatial data where available**. Does the Scoping Document identify: <ul style="list-style-type: none"> The relevant preliminary key environmental factors; Work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA’s objectives could be met; and The relevant policy context. 	Executive Director, Environment Division or delegate	
Draft scoping document (EPA prepared scope)	OEPA seeking advice from DMP Formal – 10 business days	Director, Assessment and Compliance Division or delegate	Formal request with electronic copies of documents and spatial data where available**. Does the Scoping Document identify: <ul style="list-style-type: none"> The relevant preliminary key environmental factors; Work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA’s objectives could be met; and The relevant policy context. 	Executive Director, Environment Division or delegate	

<p>Draft PER document</p>	<p>OEPA seeking advice from DMP</p> <p>Informal – 15 business days</p>	<p>Relevant Branch Manager</p>	<p>Request with electronic copies of documents and spatial data where available**.</p> <p>Does the PER document:</p> <ul style="list-style-type: none"> • Meet the requirements of the scoping document? (i.e. are the investigations and surveys adequate); • Information presented is factually correct and proposed management is adequately defined; and • Where information is inadequate, provide advice on what is required together with reasons, in descending order of importance. <p>Formal request with electronic copies of documents and spatial data where available**.</p>	<p>Director Operations, Environment Division</p>	<p>Pre consultation to occur between the relevant OEPA Branch Manager and DMP Director Operations, Environment Division prior to advice requests to determine DMP's capacity to review the draft PER document.</p>
<p>PER document (the proposal) at time of public comment</p>	<p>OEPA seeking advice from DMP</p> <p>Formal – within public comment period</p>	<p>Director, Assessment and Compliance Division</p> <p>General Manager, OEPA (see note 3)</p>	<p>Formal request with electronic copies of documents and spatial data where available**.</p> <p>Advice is requested regarding the department's view on:</p> <ul style="list-style-type: none"> • The significance of the predicted impacts; • The adequacy of the proponent's proposed mitigation and management; and • Any other issues the EPA should consider in making its decision. 	<p>Executive Director, Environment Division (mailing list for documents as agreed)</p> <p>Director General (see note 3) (advising of request and whom copies provided to)</p>	
<p>Response to submissions</p>	<p>OEPA seeking advice from DMP</p> <p>Informal – as required</p>	<p>Assessment Officer</p>	<p>Electronic copies of documents for information.</p>	<p>Relevant Team Leader</p>	
<p>Draft PER conditions</p>	<p>OEPA seeking advice from DMP</p> <p>Formal – 5 business days</p>	<p>Director, Assessment and Compliance Division</p>	<p>Formal request with electronic copies of documents.</p> <p>Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.</p>	<p>Executive Director, Environment Division or delegate</p>	<p>The OEPA may consult informally with the Executive Director, Environment Division or delegate during the development of draft environmental conditions. Where possible the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions.</p> <p>Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.</p>

Other Requests for Advice

Stage	Type and timeframe	OEPA addressee and approving officer	Advice sought and information provided	DMP addressee and approving officer	Notes
Petroleum and geothermal acreage release	DMP seeking advice from OEPA Formal – as required	Director, Assessment and Compliance Division	Formal request with hard copies of documents. DMP refer proposed acreage release areas to the OEPA for comment.	Executive Director, Petroleum Division	DMP will refer proposed petroleum and geothermal acreage release areas to the OEPA for comment where it is determined that the OEPA is a key stakeholder (i.e. environmentally sensitive locations). The referral of proposed acreage release areas to key stakeholders is a policy decision made by DMP and is undertaken for release areas licensed under the <i>Petroleum and Geothermal Energy Resources Act 1967</i> and the <i>Petroleum (Submerged Lands) Act 1982</i> . OEPA will determine whether a response to the request for comment is required.
Mining Exploration Licence Applications	DMP seeking advice from OEPA Formal – as required	Director, Assessment and Compliance Division	Formal request with hard copies of documents.	Executive Director, Mineral Titles Division	DMP will not refer mining exploration licence applications to the OEPA for comment. Where a Programme of Work is lodged following grant of an application, activity based environmental impacts of that proposal will be used as a trigger for referral to the OEPA.
s45C post assessment approvals	OEPA seeking advice from DMP Formal – 10 business days	Director, Assessment and Compliance Division	Formal request with electronic copies of documents and spatial data where available**.	Executive Director, Environment Division or delegate	Consultation to occur prior to completion of process.
s46 amendment of conditions	OEPA seeking advice from DMP Formal – 10 business days	Director, Assessment and Compliance Division	Formal request with electronic copies of documents.	Executive Director, Environment Division or delegate	Consultation to occur prior to completion of process.
Environmental Management Plans (including Mine Closure Plans)	OEPA seeking advice from DMP Formal – 15 business days with best endeavours for 10 business days where it is agreed that plans deal with straightforward matters	Director, Assessment and Compliance Division	Formal request with electronic copies of documents.	Executive Director, Environment Division or delegate (mailing list for documents as agreed)	Where conditions that require the preparation and implementation of Environmental Management Plans (EMP) on the advice of or to the satisfaction of DMP, the OEPA will encourage direct proponent communication and consultation with DMP, in order to address any outstanding matters of concern prior to submission of EMP's. Consultation to occur prior to completion of process.
All other requests for advice	Either Party seeking advice from the other Party Informal – as required	Assessment Officer	Electronic copies of documents.	Relevant Team Leader	General requests for information that may arise from time to time.

** Spatial data will only be provided at the initial consultation except where changes are made to the spatial footprint.

NOTES:

1. The Parties will use their best endeavours to meet the timelines for advice outlined in this protocol and contact the other Party as soon as possible following receipt of correspondence to discuss an acceptable timeframe where there may be difficulties in meeting these timelines. The Parties will accommodate reasonable delays in the provision of advice. Timelines commence once all required areas of the Parties have received copies of the documents to be reviewed.
2. In cases where DMP identifies omissions of key documentation provided or major deficiencies in information relative to written EPA or Ministerial requirements, the department will endeavour to advise the OEPA within a short period after receiving the request. Where agreed by the OEPA, the timeline for provision of advice may be suspended while documentation is provided or restarted from when the full complement of information becomes available.
3. Where a proposal is of State significance or particularly high public interest the General Manager, OEPA may write directly to the Director General, DMP. An additional five days is normally required to allow for the Director General sign-off process. Where this occurs a copy of the letter will be emailed to the Executive Director, Environment Division, DMP to assist in meeting the requested response timeframe. In some cases specific timeframes for responses may need to be agreed based on consideration of complexity and urgency.

If agreed upon by the Director of both Parties, consultation for specific projects may vary from the protocols described in Table 1 and be undertaken in accordance with operational

COMMUNICATION PROTOCOL BETWEEN THE OFFICE OF THE ENVIRONMENTAL PROTECTION AUTHORITY AND THE DEPARTMENT OF MINES AND PETROLEUM

On compliance with conditions in Implementation (Ministerial) Statements

It is recognised by both agencies that interaction is beneficial – both informal and formal – to allow for the exchange of compliance monitoring information to achieve the best possible outcome for the environment and the community.

The agencies may seek informal comment on a range of compliance issues on a case by case basis between individual officers. All requests for formal consultation will occur in writing from the Director Assessment and Compliance Division to the Executive Director Environment Division and vice versa.

The Parties recognise the following:

- Collaborative inspection arrangements can reduce the compliance burden on industry and may result in improved environmental outcomes.
- The aligning of resources and pooling of expertise could increase the efficiency and effectiveness of both programs.
- The exchange of information and effective communication will help avoid duplication of compliance processes where there is confidence that an alternative regulatory process can ensure that the environmental objectives can be met.

In monitoring compliance and enforcement of implementation conditions on Ministerial Statements the key areas of collaboration identified and agreed by each Party to this MOU include:

1. Compliance Management Program and Inspection Schedules

The Parties may consult each other during development of their respective compliance work programs and schedules for jointly regulated projects to support alignment and joint inspections where practical. The Parties will provide a copy of the finalised compliance plan and inspection schedule to facilitate pre planned involvement where relevant. Updates of revised programs and schedules will be provided as required.

2. Information Sharing

Where either of the Parties considers the findings of an audit, investigation or inspection is of interest to the other Party, it will notify the other Party.

Where one Party becomes aware of a compliance issue that may be notifiable under the other Parties' legislation, the initial Party will inform the other Party as soon as practicable.

3. Complaints and Enquiries

For complaints and enquiries related to a jointly regulated project, it is agreed that both Parties will undertake a collaborative approach to notify each other of the complaint and enquiry, where relevant.

Where it is determined that a complaint and/or enquiry should be referred to the other Party for action the Parties will consult each other and agree on which Party will take the lead role in the investigation. The Party conducting the investigation will ensure the other Party is kept up to date during the process of managing the complaint and/or enquiry.

4. Compliance Actions and Enforcement

For compliance and enforcement actions related to jointly regulated projects it is agreed that both Parties will undertake a collaborative approach to notify each other in relation to the issuing of non-compliances where relevant. Consultation will occur at the earliest practical time following an incident.

The Parties may, in accordance with their statutory responsibilities, initiate separate investigations of the same compliance issue, which may be for different purposes, however where appropriate the Parties will consult and agree on which Party will take the lead role in taking enforcement actions.

The Parties commit to working effectively and efficiently, to ensure that orderly enforcement and compliance actions are undertaken focussing on using the most relevant legislation. In the case where prosecution action is to be taken, the Parties will agree under which Act the enforcement action should proceed.

Timelines

The Parties will use their best endeavours to meet the timelines for advice outlined in this protocol. Both Parties recognise that this may not always be achievable. In these circumstances the Parties will endeavor to accommodate reasonable delays in the provision of advice.

To meet target times for formal advice requests referred to in this document, good communication between OEPA and DMP staff will be necessary.

Problem Solving/Escalation of Issues

It is desirable for officers of the OEPA and DMP to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time.

If issues remain unresolved, Managers of the relevant branches of DMP and the OEPA will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the General Manager, OEPA and the Director General, DMP.

Review

Either Party may seek to review these procedures at any time; however these procedures are to be reviewed within two years of the commencement date of this schedule and as required thereafter.



Anthony Sutton
Director
Assessment Compliance Division
Office of the Environmental Protection
Authority

Date: 8 Feb. 2016



Dr Phil Gorey
Executive Director
Environment Division
Department of Mines and Petroleum

Date: 10 Feb 2016

Table 2: Communications protocol between the Office of the Environmental Protection Authority (OEPA) and the Department of Mines and Petroleum (DMP) for mineral, petroleum and geothermal proposals assessed under Part IV of the *Environmental Protection Act 1986*

Stage/Task	Type and timeframe	OEPA addressee and approving officer	Advice sought and information provided	DMP addressee and approving officer	Notes
General compliance issues	Either Party seeking advice from the other Party Informal – meetings, phone and email Timeline – as agreed	Environmental Officers, Manager Compliance Branch or through the Compliance Branch inbox compliance@epa.wa.gov.au	Exchange of compliance information, findings of an audit, investigation or inspections that are of interest to the other Party.	Relevant General Manager or Team Leader	
Compliance monitoring plan and inspection schedule	Either Party seeking advice from the other Party Formal Timeline – as agreed	Manager Compliance Branch or through the Compliance Branch inbox compliance@epa.wa.gov.au	The sharing of compliance programs and inspection schedules.	Relevant General Manager	Compliance monitoring plan and inspection schedules should be shared at the start of each financial year and any updates as they arise.
Complaints and enquiries	Either Party seeking advice from the other Party Formal or informal Timeline – as required	Manager Compliance Branch or through the Compliance Branch inbox compliance@epa.wa.gov.au	The sharing of information and expertise in relation to any enquires or complaints relating to Ministerial Statements.	Relevant General Manager	
Compliance and enforcement actions	Either Party seeking advice from the other Party Formal or informal Timeline – as required	Manager Compliance Branch Director, Assessment and Compliance Division	The sharing of information and expertise in relation to compliance and enforcement actions.	Relevant General Manager Executive Director, Environment Division or delegate	