

Summary of Results from Stakeholders' Forum 9 April with EPA Actions - proposed or underway

Themes	Summary of issues raised at Forum	Solutions proposed at Forum	Response
<p>More strategic approach to assessment</p>	<ul style="list-style-type: none"> • Needs government direction on which approach to take. • Needs to be true strategic process, not create further duplication. • Strategic approach to regions or strategic approach to projects? • Consider sector-specific approach – mining, forestry, fishing, etc. • Strategic planning should be ‘sustainable’ and linked to EIA – considering social, economic and indigenous employment issues. • Need more Kimberley action-25 year plans but allow for new knowledge. • Need Strategic Environmental Reviews and industry based regional plans (like the recent Banded Iron Formation – Mid West and Yilgarn Review) 	<ul style="list-style-type: none"> • Ministerial taskforce could be established to drive strategic planning. • A State Development Agency to develop strategic plans. 	<p>EIA Review recognises the importance of strategic environmental assessment (SEA)</p> <p>EIA Review preparing paper on the broader application of SEA for submission to Stakeholder Reference Group for comment</p> <p>The intention is prepare a guideline for proponents on the preparation of an SEA</p>
	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Develop a formal procedure for the referral of major development projects to the EPA at outline development plan/structure planning phase of the planning and development process. • consider a review the relevant sections of Town Planning and Development Act, to allow Responsible Authorities delegated authority as to whether referral is required (for example small lot subdivisions). 	

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		<ul style="list-style-type: none"> No more than one agency should be nominated as the clearing authority for an individual condition of subdivision. 	
More strategic approach to assessment	<ul style="list-style-type: none"> One-stop shop preferred. 	<ul style="list-style-type: none"> A one-stop shop to direct traffic – possibly regional. 	<p>Consideration of this issue is beyond the scope of the current EIA Review.</p>
More strategic approach to assessment	<ul style="list-style-type: none"> Perhaps assessment should be done by independent lead agency – not EPA. Who does cumulative assessments – government or proponents? Upfront risk-based assessment serviced by independent technical advisory group funded by the proponent. 	<ul style="list-style-type: none"> Initial scoping to include risk assessment – public review of risk assessment then go back to proponent with items for assessment. Establish formal screening process for documents before they enter EIA process. Is the documentation up to scratch? Develop best and worst practice models. Work with industry/proponents to improve their standards. Develop EIA triage system – different levels of assessment. Suggested independent review team of experts to screen assessment document. Funded through fees collected from proponents. If we get risk based system right, do we need the current levels of assessment? Maybe we remove these levels and replace with risk based system. Define what a risk-based process should contain, do not prescribe each component but focus on key components 	<p>The EIA Review places a major emphasis on risk-based approach in EIA.</p> <p>Administrative procedures will be developed based on this approach.</p> <p>Opportunities for independent technical review of complex aspects of environmental assessments are supported by the EPA.</p> <p>Guidelines will be prepared on the application of risk-based approach in the EIA process in particular for referrals, scoping and environmental review stages of the process.</p> <p>Levels of assessment are being reviewed with the intention of reducing the number of levels and increasing clarity of the procedures.</p> <p>The EIA review has prepared a paper on the review of levels of assessment for submission to the Stakeholder Reference Group for comment.</p> <p>Guidelines will be prepared on environmental significance and the preparation of documentation to support the levels of assessment as part of the implementation of the review.</p>

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		<p>and environmental outcome.</p> <ul style="list-style-type: none"> Specified minimum standard (set high) where proposals that meet the standard will not need assessment. 	
More strategic approach to assessment		<ul style="list-style-type: none"> Establish office of coordinator general who coordinates all approvals. Case management offices located in regions. Methodology: DOIR/DEC lead taskforce to establish regional based strategic assessments. 	<p>Consideration of an office to coordinate and case manage Government approvals is beyond the scope of this review.</p> <p>Regional based strategic assessments have previously been promoted by EPA. The EIA Review supports the continued role of EPA in bringing attention to the need for such assessments.</p>
More strategic approach to assessment	<ul style="list-style-type: none"> Need for new approach to assessment to facilitate dredging and port development. 	<ul style="list-style-type: none"> 	<p>The EIA review includes review of EPA assessment policies relating to the marine environment.</p>
More strategic approach to assessment	<ul style="list-style-type: none"> More transparency on operations e.g. Cockburn Sound Management Council. Statewide biodiversity mapping. 		<p>The EIA review believes the transparency of EPA assessment procedures and strategic environmental assessment will be improved through the application of a risk-based approach.</p> <p>The EIA review will address the sharing and increasing access to biodiversity information collected as a result of the EPA's assessments.</p>
Timing	<ul style="list-style-type: none"> Certainty of timing to build into project timetable, with standards for each step. 'One pass' approach. Not EPA service unit's job to do proponent's work. Boom is not the only reason for review – 	<ul style="list-style-type: none"> Non-statutory timeframes – disclosed on department websites, reporting against timeframes. Timeframes need to be short as applicable. Strict timeframes to project manage 	<p>The EIA review will establish administrative time limits for key stages of the assessment process.</p> <p>The EIA Review is preparing a paper on time limits to apply to the EPA assessment process for submission to the Stakeholder Reference</p>

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	<p>timing needs to be reasonable and align environmental decisions with funding decisions.</p> <ul style="list-style-type: none"> • Scoping process is too long and of less benefit – lags behind the survey work in most cases. • Key issue is ministerial/appeals process with no timelines. • Regulator needs to resist temptation to save comments to the end of process. 	<p>assessment process.</p>	<p>Group for comment.</p> <p>Guidelines (bulletin) will be prepared for the preparation of scoping documents and conduct of scoping.</p>
Timing	<ul style="list-style-type: none"> • Greater rigour needed around ‘stop the clock’ process to know when clock has restarted. 	<ul style="list-style-type: none"> • Stop the clock should be retained, but refined – and timelines developed. Need to filter projects not up to standard. 	<p>‘Stop the Clock’ approach being reviewed by EIA Review.</p> <p>As part of the implementation of the review, an internal procedure/work practice will be adopted for escalation of issues that cannot be resolved at a lower level.</p>
Complexity and duplication of process	<ul style="list-style-type: none"> • Reassessment post EPA process e.g. through Part V of the <i>Environmental Protection Act 1986</i> and the Department of Industry and Resources. • Part IV and Part V of the <i>Environmental Protection Act 1986</i>. New assessment process for Part V cumbersome. 		<p>The EIA Review has determined that there is no reason why other approval processes cannot be conducted in parallel with EPA assessment procedures.</p> <p>The EIA Review has prepared a paper on the application of s. 41A and s. 41 of the EP Act to clarify matters relating to other approvals.</p> <p>The EIA review is preparing a paper on condition setting which addresses potential duplication with Part V and other approval processes for submission to the Stakeholder Reference Group for comment.</p> <p>EIA work practices will be amended to avoid unnecessary duplication.</p>
Complexity and	<ul style="list-style-type: none"> • Duplication between agencies results in lack of clarity and delays. 	<ul style="list-style-type: none"> • Important to bolster community trust in government departments. 	<p>The EIA review will not be considering any restrictions on matters that EPA may consider</p>

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duplication of process	<ul style="list-style-type: none"> • Cross agency cooperation needed especially Department of Environment and Conservation and Department of Water . • Identify significant issues and remove matters that can be dealt with by other agencies. • Several licenses and decision making authorities for each project; approval stage, compliance stage. • Linkage needed between various approvals processes in government. • Local government and EPA. 	<ul style="list-style-type: none"> • Ensure all agencies use the same nomenclature for projects/proposals. 	<p>in its advice to the Minister but amend work practices to avoid duplication in conditions recommended to the Minister.</p> <p>Refer above response on condition setting</p>
Complexity and duplication of process	<ul style="list-style-type: none"> • Memoranda of Understanding – currently applied with little transparency and lack of consultation with proponent. • Early identification of government stakeholders with clear MOUs or bilateral agreements. 	<ul style="list-style-type: none"> • Establish administrative arrangements such as MOUs with eg agencies such as DEC and EPA, DPI, SRT, Watercorp. • Initiate regular review of MOUs. 	<p>Planning and Minerals and Petroleum working groups have been established to examine and update MOUs taking a risk based approach.</p> <p>Current DOIR and DPI MOUs will be revised as soon as possible.</p>
Complexity and duplication of process	<ul style="list-style-type: none"> • Lack of consistency/interpretation of what needs to be referred (interaction between the Environmental Management Branch and Environmental Regulation Division). • Proposals need to be better quality. • Need for internal review. 		<p>The EIA Review will be addressing guidelines to assist decision making authorities and proponents to determine the environmental significance of proposals and whether they require referral.</p> <p>Current DOIR and DPI MOUs will be revised as soon as possible and will address matters that may require referral.</p>
Complexity and duplication of process	<ul style="list-style-type: none"> • Draft Conditions/discussion with government – public comment. 	<ul style="list-style-type: none"> • Conditions need to be demonstrated and auditable so proponent can show compliance. • Draft conditions – proponents to propose conditions they can live with. 	<p>The EIA review is preparing a paper on condition setting which addresses amongst other things the preparation and auditability of conditions for submission to the Stakeholder Reference Group for comment.</p> <p>A guideline (bulletin) on preparation of</p>

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		<ul style="list-style-type: none"> Communicate between agencies to develop achievable conditions. 	<p>conditions by proponents will be issued subsequently.</p>
	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Exclude draft policies from the decision making process until reviewed and finalised. Publish and implement procedural guidelines for policy preparation incorporating process for industry and community consultation and feedback and for the assessment of the social, economic and environmental impacts of all new policies which introduce new requirements into the approval process. 	
Complexity and duplication of process	<ul style="list-style-type: none"> Lack of clarity in interaction between State and Commonwealth assessment processes. 		<p>The Commonwealth and State EIA processes are separate but a bilateral agreement has been established between the two governments to use the EPA process for accredited assessments.</p> <p>The EIA Review recognises there is potential for better policy alignment between the two Governments and will flag it as an issue that that Minister may wish to take up with his Commonwealth counterpart.</p>
Complexity and duplication of process	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Move appeals process for Pt IV and V to State Administrative Tribunal. Compliance – introduce a public register for proponents who have not met conditions. 	<p>The appeals process is beyond the scope of the EIA Review.</p> <p>Monitoring compliance with conditions is a matter for the Minister through the DEC.</p>
Legislation	<ul style="list-style-type: none"> S45C and S46 are empowering. Need to look at a streamlined process for simple changes. 	<ul style="list-style-type: none"> Possible EP Act amendment to allow information from proponent to be 	<p>Review of the appeals process and Ministerial decision making and whether compensation provisions should be inserted</p>

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	<ul style="list-style-type: none"> • Ambiguity around implementation decisions, who decides? Minister or Cabinet? Fix appeal to decision maker. • Need to be able to add significant issues at late stage of EIA. • Useful to review how section of Act works (e.g. S46 Appeals or schemes). • Legislation needs to have compensation provisions in <i>Environmental Protection Act 1986</i>. • EP Act is not broken, reform should focus more on process. 	<p>available on a central database.</p> <ul style="list-style-type: none"> • Retain current set up or move to judicially based appeals process (SAT). • Current review of SAT legislation in Upper House. • Legislative changes to S48A referrals. <p>(UDIA Comments refer)</p>	<p>in the EP Act are beyond the scope of the EIA Review.</p> <p>The EIA Review is based on the presumption that the existing Part IV EIA in Western Australia is world's best practice and consequently wholesale changes to the EP Act are not being contemplated.</p> <p>A guideline for the preparation of section 45C applications will be prepared.</p>
	<ul style="list-style-type: none"> • Part IV and Part V of the EP Act lack procedural fairness – lack of merits based appeals system; appeals deal with in ad hoc manner; lack of transparency and perception of bias in appeals process; referrals treated as correspondence rather than formal referrals. • Stop misuse of sections 45c and 46 • Urgent need for reform of section 48A <ul style="list-style-type: none"> - need appeal rights on level of assessment and - administrative procedures dealing with this section. 	<ul style="list-style-type: none"> • Procedural fairness guidelines should be published by the Environment Protection Authority in regards to the environmental assessment process. • Procedural fairness guidelines should be published by the Appeals Convenor on behalf of the Minister for Environment in relation to the decision making process for appeals. • Develop agreed procedure for handling of formal referrals. 	
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> • Fee for service/user pays on scalable rate. Need to ensure it is not “buying approval”. • User pays – adequate government funding. 	<ul style="list-style-type: none"> • Fee for service, needs careful consideration. • Fee needs to be dedicated to DEC for EIA staff, retention, professional 	<p>The EIA Review is preparing a paper on resourcing and whether or not fees should be imposed for proposals considered by EPA. .</p>

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	<ul style="list-style-type: none"> Case managers could be funded. 	<p>development.</p> <ul style="list-style-type: none"> Industry willing to provide funding. 	
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> Mentoring and development of staff needs attention. Lack of experience/training. High turnover, lack of corporate knowledge, lost more than 6 senior EIA staff last year. Retention bonus needs to be looked at for government employees. 	<ul style="list-style-type: none"> Improve recruitment advertising. Improve salaries – conditions, flexibility. Documentation required for applying for government positions too onerous – look at streamlining. Consider overseas recruitment. Allocate resources to cumulative/significant projects rather than simple projects. Need to encourage and retain experienced staff, plus mechanism for accessing expert advice (e.g. consultancies). Retention policies – including promotion of women Training – not just training in technical areas, but how to be a government officer/customer service. Employ Industry Liaison Officer within DEC to act as ‘troubleshooter’ or mediator. Introduce case management system. Promote greater customer service focus. Instigate regular forums between industry and environmental agency staff. 	<p>The EIA review recognises the issues of staff retention and capability are a key factor in the ability of EPA to perform its functions under part IV of the EP Act.</p> <p>The implementation of the review will involve working with the DEC to develop appropriate retention policies and training for EPASU and relevant DEC officer.</p>
Resources and culture at	<ul style="list-style-type: none"> Lack of consistency in EPA advice and conditions, also happens with individual 		<p>The EIA review will result in changes to work practices and procedures and the development</p>

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DEC and EPA	<p>Department of Environment and Conservation officers.</p> <ul style="list-style-type: none"> • Preference for dealing with consultants. • Ongoing risk not accepted. • Culture not fair – incredible detail required, response raised where there is controversy, bogged down in process. 		<p>of work practices and guidelines to enable consistent and focussed advice to proponents. DEC officers may have different views to that of the EPA.</p>
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> • Desire for one point of contact. 	<ul style="list-style-type: none"> • Need one officer to coordinate but with round table meetings up front to get input from key technical experts. 	<p>The EIA Review will not address project management directly but implementation of the Review outcomes will result in amendments to work practices to place greater emphasis on managing proposals through the EIA process.</p>
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> • Resources could extend to non-government organisations and community groups. 	<ul style="list-style-type: none"> • Money should be supplied for community engagement. 	<p>The Resourcing Paper mentioned being prepared by the Review will address resourcing issues of NGOs.</p>
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> • Compliance not being addressed post-approval. 		<p>This issue is beyond the scope of the EIA Review</p>
Resources and culture at DEC and EPA	<ul style="list-style-type: none"> • Reluctance to look at other jurisdiction/science. 	<ul style="list-style-type: none"> • Appoint an independent academic think-tank. 	<p>The EIA review is exploring how independent expertise in universities and other places may be accessed where the need arises. Guideline for the role of independent reviewers in the EIA process will be prepared.</p>
Other issues	<ul style="list-style-type: none"> • Risk based approach – need to define methodology upfront. 	<ul style="list-style-type: none"> • Risk based approach needs to continue throughout system (i.e. remove trivial matters and regulatory burden). 	<p>EIA Review is developing risk based approach with case studies. Guidelines will be prepared for the application of risk-based approach in the various stages of</p>

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			the EIA process.
Other issues	<ul style="list-style-type: none"> • Trust and community communication is essential. • Reconsider when consultation process occurs – maybe it should be at the beginning? • Encourage proponents to engage with stakeholders earlier. • Poor guidance information on EPA website – incumbent on EPA and DEC to make sure proponents understand EIA process. • Improve scoping – streamline to focus on issues. 	<ul style="list-style-type: none"> • Early facilitated stakeholder issues identification – use an experienced facilitator and involve all stakeholders. Allow proponents to include this process in their referral forms. • EPA to be involved in the choice of consultants. 	The EIA review will address early interaction (pre-referral) with proponents to facilitate better environmental outcomes.
Other issues	<ul style="list-style-type: none"> • Collation of disparate environmental data into one public database (for use by Government and consultants) is needed. • Process maps – what next? 	<ul style="list-style-type: none"> • Geographic Information Systems database of existing data for previous projects. • Create a public portal of environmental data. 	Accessibility of GIS information will be addressed by the review.
Other issues	<ul style="list-style-type: none"> • Conditions are a big issue, obligations and clearance process is not clean. Must be legally enforceable or are useless. 	<ul style="list-style-type: none"> • Ministerial conditions need to be audited regularly. 	
	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Agencies should ensure that conditions of approvals are appropriately worded to avoid any potential conflict between the policies of clearing agencies. 	

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Other issues – deal with under Resources above	<ul style="list-style-type: none"> Assessment under the Commonwealth’s <i>Environmental Protection and Biodiversity Conservation Act</i> bilateral places burden on EPA. Need more Commonwealth support. 	<ul style="list-style-type: none"> DEC needs more money and greater focus on licensing, monitoring and auditing. 	See Resourcing paper
Other issues	<ul style="list-style-type: none"> Appeals timing and natural justice of process. Appeals process needs to be reviewed. Increase use of expert panel. Appeals are a problem. We should be working towards a system where appeals are the exception, but must remain as a last resort. Office of Development Approvals Coordination is missed opportunity – not effective in getting all issues on table at beginning. Role of Office of Development Approvals Coordination (what role?). 		
Other issues	<ul style="list-style-type: none"> Resourcing community groups. 	<ul style="list-style-type: none"> Need to consider resourcing of community groups. 	See Resourcing Paper above being developed for submission to SRG.
Other issues (Policies)	<ul style="list-style-type: none"> Offsets. Should ports be considered differently to the rest of the coast, given their strategic economic importance to the State? Wetlands management appears to be primary source of conflict between industry and environmental agencies. 	<ul style="list-style-type: none"> Target priority policies for review and review through joint working groups – greenhouse, wetlands. Publish updated procedural guidelines for assessment and decision making procedures relating to wetlands. Criteria for determining buffers to 	<p>Policy Framework developed .</p> <p>Marine Habitat Policy to be reviewed.</p> <p>Greenhouse Policy being developed.</p> <p>Draft Offsets Policy prepared.</p>

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		<p>wetlands, based on sound scientific and local evidence, should be revised as soon as possible in consultation with industry.</p> <ul style="list-style-type: none"> • Undertake a forum involving industry, the Wetlands Branch and DPI officers to identify issues associated with wetlands management, assessment and approvals with a view to gaining an understanding of the issues facing each group and identifying a consensus view on steps to improve the process in the future. • Review of Environmental Protection Policy regarding wetlands to give consideration to industry concerns identified in this report. • Undertake a full, open review of the scientific criteria for Threatened Ecological Communities (TEC) with the view to developing an agreed, standard set of criteria. • Prepare guidelines for the assessment and decision making process in relation to TECs. • Increase officer and industry training on Acid Sulfate Soils (ASS) . • Increase resource allocation for ASS within the DEC. 	<p>Wetlands Policy being developed in conjunction with DEC.</p>