

# Environmental Impact Assessment Processes Review

## Stakeholder Reference Group Meeting held at 9.30 am on 19 November 2008

### Notes

#### Present

**Members:** Paul Vogel (Chair); Doug Koontz (AMEC); Greg Kaeding (CCI); Gavin Price (CME); Graham Cobby (DoIR); Barbara Brown (ECA); Warren Tacey (EIA Div. DEC); Cam Kneen (ODAC); Steve Rolls (UDIA); Paul Gamblin (WWF); Mark Batty (WALGA); Rob Atkins (DEC); Jim Dodds (DoH)

**Observers:** Mike Allen (DPI); Richard Ellis (APPEA); Nick Dunlop (CCWA); Cara Babb (CME); Judy Harley (UDIA); Petrina Raitt (APPEA); Nick Jones (APPEA); Mary Adam, DoH

**Review Team:** Charlie Welker, Michelle Andrews

#### 1. NOTES OF MEETING 18 AUGUST 2008

No comments were received on the notes of the previous meeting. The Chair provided an update on the actions from the last meeting. Outstanding actions:

Action 1: A meeting of the DoIR Working Group to progress the preparation of the DoIR MoU to occur early December.

Action 2: EIA Div to complete the proposal for addressing the assessment of pre-1996 zoned land.

Action 3: A meeting of the DPI working group to progress the preparation of a new MoU with DPI/WAPC to be convened when the proposal re pre-1996 zoned land is drafted.

Action 4: Chair of EPA to have further discussions with the CCWA to discuss resourcing of NGOs.

Action 5: EPA to prepare guidelines for s45C applications. Additional resources have been allocated to process the backlog of applications.

Action 6: Chair of EPA to convene a meeting of a sub-group of SRG members to discuss NGO involvement in a risk-based EIA.

Action 7: The Terms of Reference for the SRG to be amended to reflect ongoing role in the implementation of the review, and be consistent with the EPA's rationalisation of the existing stakeholder advisory groups.

## **2. EIA REVIEW**

A brief summary of the progress of the review was provided by the Chair. The draft final report has been considered by the EPA and will be finalised and forwarded to the Minister before the end of the year. The final report will be cognisant of the new Government's priorities and current initiatives. The report will be sent to the SRG for information.

The Deputy Chair of the EPA has conducted an EIA Division workload review and confirmed that the EIA review outcomes are reasonable. The Deputy Chair has made recommendations regarding project management, timelines and business support systems.

Action 8: The EPA to finalise the review report and forward to the Minister. The EPA to circulate the final report to SRG members for information.

## **3. IMPROVING APPROVAL PROCESSES ACROSS GOVERNMENT**

The Chair of EPA advised that the new Government has initiated a process to review approval processes across Government to improve timelines and certainty. At this stage, it appears that the EIA review outcomes are totally consistent with the objectives of the Government's wider review, and in particular the initiatives that support parallel processing and improved timelines. The role of consultation groups such as the SRG in the approval process review will be explored.

Action 9: The Chair of EPA to discuss possible future role for the SRG in the approval process review at the next Directors General meeting.

## **4. MOU WORKING GROUPS**

DoIR has distributed a first draft EPA/DoIR MoU and a working group meeting is planned for early December. The EPA/DoIR MoU will need to:

- incorporate risk-based approach
- address strategic assessment
- provide for data/information sharing
- address openness and transparency of processes
- consider and reflect the structural changes proposed for DoIR (including implications for State Agreement Acts)

The approval process review is leading to some new thinking, including the possibility of a separate DoIR/DEC MoU.

New health legislation is proposed and an EPA/DoH MoU is needed.

There is some concern that the mechanisms for identifying environmental values are inadequate. Need to consider where these higher order concerns should be addressed. What is the role of planning, and is strategic environmental assessment part of the solution? The MoUs may need to point to these considerations.

Action 10: The EPA/DoIR MoU working group to forward a draft MoU to the SRG and EPA by the end of February 2009.

Action 11: EPA/DoH MoU working group to be established in February 2009 to progress the preparation of a new MoU consistent with the new draft health legislation.

Action 12: The EPA to consider how it should identify environmental values, how the EPA should be involved in strategic reviews/plans/options, and how the new MoUs should reflect these intentions.

## **5. REVIEW OF POLICIES**

A brief summary of progress of the review of priority policies was provided by the Chair.

**Marine** – Draft review report went to EPA in November. Report has highlighted interpretation differences, inadequate environmental guidelines, the paucity of strategic/structural landuse planning and the need for a communication strategy. The final report will be circulated to the SRG members. Note that DoH has significant data for marine invasive species that may be useful.

**Greenhouse** – Draft policy to be considered by the EPA before the end of the year. Policy will include set of carbon capture and storage principles.

**Short range endemics** – Draft guidance statement has been considered by the EPA and will be circulated to the SRG for 2 week targeted consultation.

The EPA would like advice from the SRG on policy gaps in the state. WWF has suggested that EPA's role in fisheries management should be examined.

Action 13: SRG members to consider and provide advice at the next meeting on environmental policy gaps in Western Australia.

## **6. CO-INVESTMENT REVIEW**

A brief summary of the review being undertaken by Dr Bernard Bowen was provided by the Chair. Dr Bowen is expected to submit a final paper to the EPA February 2008.

## **7. ADMINISTRATIVE PROCEDURES – DRAFT PAPER**

SRG members indicated general support for the approach in the draft procedures. A number of preliminary comments were made including:

- inconsistency in Section 13 regarding level of assessment and public review
- using 'may' instead of 'will' does not give certainty

Action 14: Members to provide comments on the draft administrative procedures by COB Friday 5 December 2008 (eNGOs to advise if more time required).

## **8. APPLICATION OF RISK-BASED APPROACH IN EIA – DRAFT PAPER**

SRG members indicated general support for the risk-based approach, and offered preliminary comments on the draft paper including:

- Need to further consider how the factors will be applied
- The process should inform decision on level of assessment, not pre-determine it
- How will risk assessment approach be applied to a) third party referrals, b) other agencies with delegations, and c) other agencies with environmental responsibilities?
- Engagement of eNGOs will be difficult (greater time and skill commitment)
- Need to consider stakeholder involvement aspect
- Some inconsistency between the administrative procedures and the risk paper (language, definitions, processes etc)
- Implementation (including training and communication) will be critical
- Consequences statements and criteria will be important
- Need an ongoing 'lessons learnt' process
- Not clear how new approach will deliver streamlining

Action 15: Members to provide comments on the draft paper on risk-based approach in EIA by COB Friday 5 December 2008 (eNGOs to advise if more time required).

The EPA has decided to trial the approach on two or three proposals, and to hold a series of workshops to develop appropriate criteria.

## **9. REVIEW OF ANNUAL AUDIT COMPLIANCE REPORTING – FINAL PAPER OF WORKING GROUP**

The CCWA is concerned that the paper focuses on final thresholds for prosecution and loses sight of adaptive management and environmental outcomes.

The original context for the AACR condition was discussed, and it was agreed that a separate meeting would be convened to discuss CCWA's concerns, with representation from APPEA, CME, DEC, CCWA and Appeals Convenor.

Action 16: EIA review team to convene a separate meeting to discuss and resolve CCWA concerns with the AACR working group paper.

## **10. OTHER BUSINESS**

Suggestion that the draft papers be released for wider consultation and comment.

Suggestion that the SRG membership be extended to include indigenous representation (either government agency or land council).

Clear performance indicators will be important, including performance of proponents.

Next meeting will be held late February or early March 2009 – date and time to be confirmed.