

Department of Mines,
Industry Regulation and Safety
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Dear Sir/Madam

ENVIRONMENTAL PROTECTION AUTHORITY SUBMISSION TO DEPARTMENT OF MINES, INDUSTRY REGULATION AND SAFETY'S – PROPOSED MINING DEVELOPMENT AND CLOSURE PROPOSALS AND APPROVALS STATEMENTS – DISCUSSION PAPER

Thank you for the opportunity to make a submission to the Discussion Paper on the Mining Development and Closure Proposals and Approvals Statements under the *Mining Amendment Act 2022* (Department of Mines, Industry Regulation and Safety (DMIRS), March 2023).

The EPA broadly supports the new Framework and its focus on streamlining assessment processes to reduce duplication and improve regulatory practice.

The Western Australian Environmental Protection Authority (EPA) is an independent statutory body with responsibility to use its best endeavours to protect the environment, and to prevent, control and abate pollution and environmental harm. The EPA discharges this objective by undertaking environmental impact assessment (EIA) of significant proposals under Part IV of the *Environmental Protection Act 1986* (EP Act).

The EPA uses environmental principles, factors, and objectives as the basis for assessing whether a proposal can be implemented. When assessing proposals including mining proposals, the EPA applies a mitigation hierarchy that includes rehabilitation as a key consideration. Mine closure is assessed under a number of environmental factors, including Flora and Vegetation, Inland Waters and Terrestrial Fauna. The EPA assesses mine closure rehabilitation as part of its EIA process and may require that work relating to mine closure, such as a Mine Closure Plan is prepared in accordance with DMIRS *Statutory guideline for mine closure plans* and *Mine Closure Plan Guidance – how to prepare in accordance with the Statutory Guidelines*.

The EPA considers there would be value in DMIRS environmental factors and objectives required in Mining Development and Closure Proposals and Approvals Statements aligning with the EPA's environmental factors. Aligning factors and objectives will improve consistency between the two frameworks and ensure that proponents, the public and regulators are all using the same objectives regardless of the Act they are engaging with.

The EPA supports the adoption of outcome-based decision-making with the proposed introduction of outcome-based conditions. This is consistent with EPA's preferred approach as outlined in its *Interim Guidance – Environmental outcomes and outcome-based conditions*.

The Department of Water and Environmental Regulation (DWER) and DMIRS currently has an Administrative Agreement (dated 21 January 2021) relating to advice to assist the EPA's assessment of significant proposals under Part IV. As outlined in this agreement, DWER will consult with DMIRS at each stage of assessment, where appropriate, in cases where DMIRS is a decision-making authority (DMA) under mining related acts.

As part of the amendments to the EP Act proclaimed in 2021, new provisions were introduced which allow the EPA to take into account other statutory decision-making processes that can mitigate potential impacts to the environment. The EPA commenced engagement with DMIRS about ways to achieve efficient assessment processes which protect the environment by giving consideration to other DMA processes. The EPA now proposes to re-invigorate this engagement shortly, to maximise the opportunity for changes to current requirements of Mining Proposals and Mine Closure Plans to achieve more efficiency and more environmental protection.

In the meantime, the EPA considers there are a number of emerging needs which the future Mining Development and Closure Proposals and Approvals Statements process should address, as follows:

- Achievement of nature positive outcomes
- Consistency with regional planning frameworks and outcomes
- Consideration of cumulative and holistic assessment
- Rehabilitation and closure objectives which require achievement of environmental outcomes, in addition to safety and liability standards
- Life cycle considerations in mine and infrastructure planning and design. These should be considered at the start of development and not delayed until near the end of the project life
- Consideration of off-site environmental impacts and values as well as on-site impacts and management
- Impact counterbalancing (offset) packages which deliver near, medium- and long-term environmental benefit, including protected areas, restoration and research

- Clear consultation requirements for proponents, so that other statutory processes are not used as de facto consultation

The EPA welcomes further discussions on the Framework and how the EPA and DMIRS can continue to work with each other for better environmental outcomes.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Matt Tonts', with a stylized flourish extending to the right.

Matthew Tonts

Chair – Environmental Protection Authority

1 August 2023