

To: Department of Mining, Industry Regulation and Safety

**Re: Draft Programme of Work Guidance and the draft
Exploration and Prospecting Rehabilitation Guidance**

8 March 2023

Introduction

AMEC welcomes the opportunity to provide comment on the draft Programme of Work Guidance and the draft Exploration and Prospecting Rehabilitation Guidance. We appreciate the additional time granted to AMEC to compose this submission.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2020/21 Industry generated a record high \$301 billion in mining exports, invested \$3.2 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$43.2 billion in royalties and taxes.

General Comments

AMEC supports the delivery of clear guidance that details the expectations of the Department. This is the intent in the drafting and the Department's consultation which is appreciated. A Programme of Works (PoW) is a fundamental approvals document for the Western Australian exploration industry.

AMEC has received consistent feedback from Industry seeking the assessment criteria that PoW is considered against. It is assumed that the Government has a standardised assessment tool that an assessing officer applies to ensure a PoW is compliant. How these documents reflect that criteria could be made more transparent through a checklist in the appendix.

A PoW is nested amongst and interacts with multiple layers of other DMIRS regulation. As a result, the interpretation of this document relies on the reader referencing multiple other pieces of guidance and factoring that into their decision making process. This is not necessarily simple, and a single master document may be beneficial.

Some in Industry have noted similarities between this version and previous editions consulted in approximately 2015. While that discussion of historical documentation has been helpful, our assumption and the submission's content, considers this as a new document.

Programme of Works guidance

Timeframes

Details on the timeframes for PoWs would be useful. AMEC appreciates the reduction of PoW timeframes to 15 days – the guidance should reflect that. It would be useful, to set expectations, to detail when those timeframes are unlikely to be met due to interaction with other agencies (i.e. a factor that will require referral to the DBCA).

Triggers and thresholds

While the guidance does provide a useful high level overview of the Department's perspective, greater granularity of what triggers, thresholds and events will cause a proponent to require further information.

Drafting guidance to minimize stop the clock events

AMEC appreciated that DMIRS publishes reports on the Department's Environmental Assessment approvals timeframes. We noted that in 2021-22, the most common stop the clock events for PoW were requesting information (RFI) from the proponent with 1,073 (34.03%) of the finalised applications subject to this event. The report helpful clarifies that of these RFIs:

- 20% related to both baseline data and management practices for flora and fauna;
- 18% related to the size and distancing of drill pads.

Greater detail on Government expectations for these two common RFIs in this document would be greatly appreciated. The current drafting relating to baseline data is cursory in what details are needed. A template and/or examples would be appreciated, and greater detail about how the Department assesses the data provided.

Industry believes Government has a clear understanding of what it wants for the size and distancing of drill pads: this guidance should simply state that.

Extension of time for rehabilitation

Section 2.2 on a request for the extension of time for rehabilitation is currently too brief to provide sufficient guidance to an operator looking to seek an extension. Greater detail is needed on what the decision-making thresholds Government faces when considering granting an extension. Are there circumstances when an extension will not be granted? Industry feedback has been consistent that a single year can, in certain environments, be an ambitious timeframe. For this reason we consider there may be an administrative benefit to extending the rehabilitation timeframe for a further year.

AMEC suggests that a standardised form for an extension request would have benefits for both industry and Government.

Style guideline

Clarity on the expectations regarding formatting for PoWs submitted over the counter would reduce processing timeframes.

Checklists

Industry has consistently asked AMEC for a checklist to comply with a PoW. The structure of the online system ensures that content is provided in the correct way, however, not all of Industry uses the online system and not all applications via the online system are granted. An appendix with a non-digital checklist that lists the expectations would be comprehensive and useful.

Exploration and Prospecting Rehabilitation Guidance

Outcomes

Industry feedback on this document should seek an outcome rather than prescribe the details of the process. There has been feedback appreciating the use of diagrams. The expectation from industry is that a site is returned to a similar condition that it was found.

Variety of environments

There has been feedback that the diversity of environments in Western Australia are not reflected in the rehabilitation expectations. Not all landscapes have sufficient top soil, for example, so there may be difficulty for some to meet a narrow interpretation of what is prescribed.

Rehabilitation Database or Register

Further detail is needed on how to comply with, what appears on the face of it, to be a new requirement. AMEC would appreciate greater detail as to the policy rationale behind this new requirement.

The Guidance details 'useful rehabilitation data to track' – is this list what is expected?

Please also provide details on the audit and what the compliance expectations are. It is assumed that this new requirement will only apply to new PoWs: is this correct?; and if so, when shall it be introduced? How commercially confidential is the data within this database, for example, will the database be publicly available and will it be released later? Also, what format is it expected to be held in – for example is a paper file acceptable? Will the database be handed on with the tenement to the new owner?

Similar to earlier commentary, publication of how the Department will assess the register as being compliant is needed, before this condition is introduced.

New Standard conditions

There is a lack of explanation as to why the Government considers the new standard conditions necessary. Standard condition 7.1 is an extension of the new rehabilitation database and register. Whereas the standard condition 7.2 in particular appears redundant. A PoW only authorises the activities prescribed within it. It is unclear why a further condition stating that is necessary?

Further considerations:

Aboriginal Cultural Heritage Act 2021 & Land and Public Works Amendment Bill 2022

The review of this guidance is timely as the implementation of the new Aboriginal Cultural Heritage (ACH) Act 2021 and the Land and Public Works Amendment Bill 2022 will generate many questions for Industry. The Government has been clear that the new ACH Act will come into affect in July 2023. We ask that DMIRS is prepared to release guidance before July 2023 detailing their initial expectations, we would suggest that a review of the DMIRS expectations after 12 months would be appropriate as it is not at all transparent how the wider Government will choose to deliver on their commitment to implement the ACH Act.

The Land and Public Works Amendment Bill will introduce diversification leases, a new form of tenure on the pastoral estate. It anticipated that this will pass Parliament and, similar to the ACH Act, be gazetted before 1 July 2023. Industry would appreciate early guidance on how PoW will interact with diversification leases, particularly any third party consultation and buffer zone requirements.

Conservation Management Plans

AMEC has spoken to both DMIRS and DBCA regarding growing industry frustration regarding the lack of guidance for drafting a Conservation Management Plan. Previous guidance held on the DBCA website has been taken down as it is now out of date. This guidance needs to be updated and published. Guidance improves standardization of what is provided, reduces the number of clarifications and RFIs, and increases the transparency of the regulators assessment criteria.

Compliance

The documentation lacks detail on the compliance activities of the Department. AMEC understands that the Department does undertake compliance and enforcement activities regarding PoWs as is appropriate. It is important for our Industry's social licence that the role of the regulator is clear and a reader cannot mistakenly believe that there is no accountability and compliance progamme regarding these activities.

Surrendering a PoW?

Industry has highlighted the lack of information regarding the procedure and expectations to surrender a PoW. Details on the conditions are to do so and what specific information regarding the tenement and rehabilitation that the Department would need from a proponent seeking to surrender a PoW.

Eligible Mining Activities Framework

AMEC is supportive of the Eligible Mining Activities Framework (EMA) as a risk based and realistic approach to reduce unnecessary administrative burden while maintaining high regulatory standards. Reference needs to be included regarding the EMA in both documents.

Final Comment

AMEC appreciates the opportunity to provide comment on documents. We would welcome a further discussion on:

- A reduction of RFI events;
- The proposed new standard conditions;
- The content and shape of the new rehabilitation database;
- Conservation Management Plan guidance; and
- Addressing the expectations of the incoming Aboriginal Cultural Heritage Act 2021 and diversification leases.

For further information please contact:

Neil van Drunen

Director: WA, NT, Commonwealth Policy

Association of Mining and Exploration Companies

0407 057 443