



Regulatory services

Introduction

The Department of Water and Environmental Regulation (the Department/DWER) supports Western Australia's community, economy and environment by managing and regulating the State's environment and water resources.

The Department is responsible for environment and water regulation, It serves as a 'one stop shop' for industry and developers, with the aim of streamlining and simplifying regulation while ensuring robustness of regulation to meet Government and community expectations.

The Department administers environmental legislation to protect the Western Australian community and the environment against unacceptable impacts from emissions and discharges; contamination, over-abstraction of water resources; clearing of native vegetation, and the transport and disposal of controlled wastes.

The Department administers water resource management legislation that provides for the regulation, management, use and protection of the State's water resources.

The Department applies best practice regulatory principles to all of its regulatory functions to support effective and efficient water resource management and environmental regulation, as well as provide a high level of consistency and transparency. These principles are:

- Risk based;
- evidence based;
- transparent;
- collaborative;
- consistent; and
- responsive.

Information on the Department's Regulatory Best Practice Principles can be found here: www.dwer.wa.gov.au.

In addition to the above, the Department provides services to support the statutory functions of the Environmental Protection Authority, which provides recommendations to the Minister for Environment on matters relating to environmental policy and the environmental impact assessment of significant proposals under Parts III and IV of the *Environmental Protection Act 1986*.

Purpose

This factsheet provides an overview of the Department's regulatory roles under the legislation listed below, and outlines the Department's expected timeframes to deliver an assessment and determination on regulatory processes.



The Department's regulatory role is based on the following legislation:

- *Rights in Water and Irrigation Act 1914*;
- Part V of the *Environmental Protection Act 1986*;
- *Environmental Protection Regulations 1987*;
- *Environmental Protection (Controlled Waste) Regulations 2004*;
- *Environmental Protection (Noise) Regulations 1997*; and
- *Contaminated Sites Act 2003*.

Water licensing, *Rights in Water and Irrigation Act 1914*

The Department manages and allocates water resources by issuing licences to take water and construct wells, and permits to interfere with the bed and banks of water courses. These water licensing activities are delivered via a network of regional offices across the State. In Western Australia, water allocation plans set out how much water can be licenced for abstraction, how much water is left in the system and local rules for the take of water.

The Department recently launched an online licensing management system, allowing proponents to lodge water licence applications, renew their water licences and lodge meter readings. The licensing system (COMPASS) allows licensees to track applications through the system, give access to their consultants and lodge additional information on-line. The Department works with water users to encourage and promote compliance with water legislation. The Department has a compliance monitoring program that detects possible offences, investigates and, where appropriate, responds with enforcement. It also takes a strategic approach to on-ground compliance monitoring that focuses on the highest risk water resources and water licences within those water resources.

Water licensing decisions made by the Department are subject to review by the State Administrative Tribunal (SAT).

Part V, *Environmental Protection Act 1986*

The Department assesses and determines applications for permits to clear native vegetation, as well as works approvals to construct, and licences or registrations to operate prescribed premises.

Regulation of native vegetation clearing

(Part V, Division 2, *Environmental Protection Act 1986* and *Country Areas Water Supply Act 1947*)

Under the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless it is done under the authority of a clearing permit or an exemption applies.

Exemptions for clearing that is a requirement of another written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act.

Exemptions for routine land management practices are prescribed in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. These exemptions do not apply within environmentally sensitive areas declared by the Minister for Environment, which can be viewed at www.dwer.wa.gov.au.



In making a decision on a clearing permit, regard is given to the clearing principles contained in Schedule 5 of the EP Act and to any planning instrument or other matters the Department considers relevant.

Decisions on clearing permit applications are subject to appeal rights for both the applicant and third parties. Appeals are investigated by an Appeals Convenor and determined by the Minister for Environment. Information on appeals can be found at www.appealsconvenor.wa.gov.au.

The Department also regulates the clearing of native vegetation in certain controlled water catchment areas, issuing permits to clear vegetation where exemptions apply under the EP Act or, if compensation has previously been paid, to retain the subject vegetation.

Administrative agreement with the Department of Mines, Industry Regulation and Safety (DMIRS)

The CEO of DWER has an agreement with and has delegated authority to DMIRS to assess and determine applications for clearing permits for the purposes of:

- 1) an activity authorised by or required by the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969*, or the *Petroleum (Submerged Lands) Act 1982*; or
- 2) an activity under a government agreement administered by the Department of Jobs, Tourism, Science and Innovation.

Bilateral assessments

The State Government and the Commonwealth Government have entered into a Bilateral Agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) (EPBC Act).

The agreement allows the State to undertake assessments relating to decisions under the EPBC Act on behalf of the Commonwealth. Under the agreement, the Department undertakes one assessment which is then applicable to decisions made under both the EPBC Act and the EP Act relating to clearing.

Regulation of emissions and discharges

(Part V, Division 3, Environmental Protection Act 1986)

The Department administers this part of the EP Act to regulate emissions and discharges from prescribed premises.

Prescribed premises are defined in Schedule 1 of the *Environmental Protection Regulations 1987* (the EP Regulations) and consist of activities with the potential to cause emissions and discharges which may impact upon public health or the environment.

Decisions on works approvals and licences (and amendments) are subject to appeal provisions for applicants and third parties. Appeals are investigated by an Appeals Convenor



and determined by the Minister for Environment. Information on appeals can be found at www.appealsconvenor.wa.gov.au.

Works approval

The EP Act requires an occupier of a premises who carries out work (constructs or alters infrastructure) which causes the premises to become a prescribed premises, to only do so in accordance with a works approval. A works approval authorises the construction of a prescribed premises and may also authorise emissions and discharges that occur during construction and commissioning.

Licence

The EP Act makes it an offence for occupiers of prescribed premises to cause an emission from a prescribed premises, unless they hold a licence for that premises. Licences contain conditions to protect the environment or public health from emissions from the premises.

Amendment and review of existing works approvals and licences

The EP Act provides for amending works approvals and licences. The Department assesses and makes decisions on amendment applications submitted by instrument holders and may also make amendments on its own initiative.

The Department undertakes risk-based reviews on existing premises and licences to ensure the licences are effective in controlling risks posed to public health and the environment.

Registration

An occupier of a prescribed premises listed in Part 2, Schedule 1 of the EP Regulations may apply for a registration instead of a licence. A works approval is still required for works carried out in relation to a prescribed premises listed in Part 2.

Controlled waste tracking, *Environmental Protection (Controlled Waste) Regulations 2004*

The *Environmental Protection (Controlled Waste) Regulations 2004* (Controlled Waste Regulations) provide for the licensing of carriers, drivers, and vehicles involved in transporting controlled waste, and manages the tracking of movement of controlled waste on roads. Information on the definition and types of controlled waste can be found on the Department's website.

A carrier must hold a licence relevant to the type of controlled waste they transport. A person transporting bulk controlled waste (i.e. liquid waste within a tank) on a road must hold a controlled waste driver licence. All vehicles or tanks transporting bulk controlled waste must be licenced. Different provisions apply to transporting packaged controlled wastes.

The Controlled Waste Regulations also provide for the tracking of controlled wastes from the point of generation to unloading at an approved waste facility through the use of controlled waste tracking forms, which must accompany the load and be copied to the Department.



Noise regulation, *Environmental Protection (Noise) Regulations 1997*

Most environmental or neighbourhood noise sources are governed by the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations). The Noise Regulations set assigned (or allowable) levels for noise received at various types of premises at different times of day. Activities that cannot reasonably meet assigned levels but retain a degree of acceptance are recognised in the Noise Regulations as a 'special case'.

Local government CEOs have delegated powers to address noise issues within their jurisdiction. Environmental health officers employed by local government are often appointed as authorised persons and inspectors under the EP Act for the purpose of investigating unreasonable noise emissions.

Local governments administer the Noise Regulations; however, where a premises is licensed, it is the Department's responsibility to investigate complaints and administer the Noise Regulations. Further information on the Noise Regulations can be found on the Department's website.

Contaminated Sites Act 2003

The Department administers the *Contaminated Sites Act 2003* (CS Act) to ensure contamination is identified, recorded, managed and remediated. Under the CS Act, land owners, occupiers and persons who caused contamination must report known or suspected contaminated sites to the Department. Anyone else may report known or suspected contamination. The Department inquires into each report and determines the appropriate classification for the site in consultation with the Department of Health. Further information regarding regulation of contaminated sites can be found at www.dwer.wa.gov.au.

Classification decisions made by the Department are subject to appeal. Appeals are investigated and determined by the Contaminated Sites Committee. Further information on appeals can be found at <http://www.csc.wa.gov.au/>.

Land use planning

The Department has statutory and non-statutory roles in regard to land use planning processes. The Department provides advice on land use planning matters to local government and other decision-makers, such as the Western Australia Planning Commission; the Department of Planning, Lands and Heritage; and the Department of Mines, Industry Regulation and Safety. Advice generally relates to specific proposals that may impact on water resources and the environment or interact with licensed premises.

The Department has a statutory role under the CS Act to advise on the suitability of land for subdivision or development, where a memorial has been registered on the land title due to the presence of confirmed or possible contamination.

The Department protects and manages public drinking water source areas (PDWSAs). This includes defining and mapping the areas used as public drinking water sources; preparing water source protection plans; providing advice to the public and decision-makers on suitable land uses in and around PDWSAs; and developing guidelines to minimise the impact of land use activities on water quality.



Assessment and determination timeframes

The Department aims to determine 80 per cent of applications within the target timeframes listed in Table 1 (except where timeframes are statutory requirements, in which case the Department aims to achieve 100 per cent). These timeframes do not include 'stop-the-clock' periods, such as when further information has been requested from the applicant.

The Department aims to respond to 95 per cent of referrals for water advice within 35 working days.

Performance statistics against target timeframes are published quarterly on the Department's website.

Table 1: Timeframes for assessment and determination

Licence or permit application	Target timeframe (excluding 'stop-the-clock')*
<i>Rights in Water and Irrigation Act 1914</i>	
Water licence/permit (low-risk)	65 working days
Water licence/permit (medium-risk)	75 working days
Water licence/permit (high-risk)	95 working days
<i>Environmental Protection Act 1986</i>	
Works approval/licence (incl. amendments)	60 working days
Native vegetation clearing permit	60 working days
Registration	40 working days
Controlled waste licence	30 calendar days (statutory)



Licence or permit application	Target timeframe (excluding 'stop-the-clock')*
<i>Contaminated Sites Act 2003</i>	
Classification of reported sites (Form 1)	45 calendar days (statutory)

* Timeframes are targets unless specifically listed as statutory timeframes