

Independent Review of WA Environmental Approvals Processes and Procedures

LIST OF RECOMMENDATIONS

No.	Recommendation	Timeframe	Government response
1	Develop an innovative and creative recruitment strategy in consultation with the PSC to attract skilled talent to the 'Office of the EPA'.	Less than 6 months	Accepted.
2	Government to develop an attraction and retention package for key qualified personnel to assist environmental assessment processing using the PSC Attraction and Retention Incentives framework.	Less than 6 months	Accepted.
3	DWER and Office of EPA to: <ul style="list-style-type: none"> a) Expand on existing training programs for existing and new staff on an ongoing and mandatory basis, that builds understanding and skills in EIA as well as risk-based decision making in the face of uncertainty, working across Government and adoption of a service culture. b) Establish a mentoring program to support new and inexperienced assessment personnel with experienced officers. 	6-12 months	Accepted.
4	DWER to participate actively in the Government's Graduate Program so as to 'build for the future'.	Less than 6 months	Accepted.

5	DWER and Streamline WA to bolster Regulatory Performance Report requirements of overall Part IV assessment timeframes to encourage an accountable culture and incentivise team members to 'case manage' referrals (see also Recommendation 18).	6-12 months	Accepted.
6	DWER to develop an Office of the EPA organisational culture centred on environmental assessment facilitation, integrated with the ongoing training. This will enable a shift of the culture of the Office of the EPA from one of risk aversion and a lack of accountability, to one of a highly engaged, accountable and service-oriented unit facilitating sustainable development.	6-12 months	Accepted.
7	<p>a) Information provision into the EIA process from government agencies should be an agency priority with efficient processes, resourced adequately, timely and signed-off by the advising agency DG or senior delegate and framed to aid risk-based decision making by the EPA.</p> <p>b) Information requests from the EPA/Office of the EPA to advising agencies at the many touchpoints in the EIA process, should be clear, concise and focused on significant matters related to that agency's business.</p>	6-12 months	Accepted.
8	<p>DWER and Office of the EPA to:</p> <p>a) Prioritise and accelerate the re-structure of DWER in relation to assessment and approvals and ensure it is adequately resourced.</p> <p>b) Create a centralised referral management and coordination unit in the Office of the EPA as part of the restructure to provide better oversight of referrals and improve timeframes.</p>	<p>Less than 6 months</p> <p>6-12 months</p>	Accepted.

9	<p>a) Re-establish an ongoing presence for the EPA/Office of the EPA within the CBD comprising a board room and offices to conduct board meetings and engage with proponents, consultants and other government agencies and other key stakeholders on a regular basis.</p> <p>b) DWER to ensure there is an appropriate staffing component to support this relocation.</p>	6-12 months	Accepted.
10	<p>a) The EPA should update existing Administration Procedures to clarify the importance of pre-referral proponent meetings and ensure they identify and include appropriate feedback reporting intervals to the proponent (see also Recommendation 24).</p> <p>b) All proponents for significant proposals or projects should be offered the opportunity to meet with the EPA Board at least once during the assessment process and potentially more for contentious or complex proposals.</p>	6-12 months	Accepted.
11	EPA should develop and implement a Stakeholder Engagement Plan that explicitly acknowledges the role and responsibilities of proponents.	6-12 months	Accepted.
12	<p>a) The Government consider amending the EP Act to introduce a requirement for the EPA to have a 'Statement of Intent' with the Minister for Environment to ensure the EPA recognises the government's priorities and policy objectives.</p> <p>b) The Stakeholder Engagement Plan would be a key component of a statutorily mandated 'Statement of Intent' the EPA would have with the Minister for Environment.</p>	up to 18 months	<p>(a) Accepted.</p> <p>(b) Accepted.</p>

13	<p>a) Government consider amending the EP Act to establish the EPA as a skills-based board with between 7-9 members as soon as possible.</p> <p>b) In the short term, and respecting the requirements of the EP Act, this could be accomplished by using a skills matrix for reappointments and actively targeting potential members with the requisite skills in addition to the expression of interest method. In the longer term, this requirement should be embedded in legislation. The EPA Chair's advice should be sought on appointments.</p>	<p>6 to 18 months</p> <p>Less than 6 months</p>	<p>Accepted.</p>
14	<p>a) The government should develop and maintain a list of priorities/State Significant projects that are communicated to all DGs. The DWER DG and DDG Approvals should engage with the EPA Chair to ensure they are efficiently and effectively case managed.</p> <p>b) Government and the State Solicitors Office to evaluate if s 44(2c) of the EP Act has any utility in being able to direct the EPA to prepare an assessment report to the Minister for Environment within a specified period of time for State Significant proposals or projects.</p>	<p>6-12 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p>
15	<p>DWER and Office of the EPA to:</p> <p>a) Develop a triaged, prioritised and case management approach to reduce the backlog of assessments and the growing number of post-approval matters to manageable levels.</p> <p>b) Use external skills/experience where appropriate to expedite assessments supported through use of existing fee for service funds.</p> <p>c) Evaluate the use of Deemed approvals for EMPs.</p>	<p>Less than 6 months</p> <p>6-12 months</p> <p>6-12 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p> <p>(c) Accepted.</p>

16	DWER and DPLH with the support of experienced industry practitioners to urgently take steps including regulatory changes as required, to reduce the referral of schemes and scheme amendments to the EPA under s 48A of the EP Act using significance criteria for environmental complexity (see also Recommendation 34).	Less than 6 months	Accepted.
17	To complement Recommendation 8, establish in the Office of the EPA, an administrative function for 'Approvals Delivery and Scheduling' across all assessment and approvals for Part IV of the EP Act to effectively case manage proposals.	6-12 months	Accepted.
18	<p>a) Engage a consultancy to benchmark processes to establish a 'target processing time', a 'stop the clock' use limit and a 'request for additional information' limit for Part IV assessments.</p> <p>b) Consider including these performance indicators in the Streamline WA quarterly reports (see also Recommendations 5 and 24).</p>	<p>Less than 6 months</p> <p>6-12 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p>
19	Government to consider funding reform initiatives recommended in this report through the cost recovery provisions and communicating this to industry in a transparent way.	6-12 months	Noted.
20	Develop a high integrity business model, in consultation with ECA/EIANZ, for using external (to government) skills and experience in EIA and accessing external technical/scientific expertise to reduce EIA timelines and to manage workloads, scientific uncertainty and contested scientific views.	6-12 months	Accepted.
21	Review IBSA and IMSA regulatory requirements to ensure the maximum amount of biodiversity data are available.	6-18 months	Noted.

22	DWER/EPA to commission a body of research work, not dissimilar to that being undertaken for proposed MNES national standards, to determine if a risk-based, standard setting or codified approach to EIA could be of utility to reduce assessment timeframes for low-risk proposals while still protecting the environment.	6-18 months	Noted.
23	<p>a) Urgently accelerate implementation of Environment Online with additional funding and senior level project management oversight (possibly from the Office of Digital Government). Consider integrating DMIRS's systems and potentially Planning Online with Environment Online in the future.</p> <p>b) In the interim, the Office of the EPA should maintain a database of projects or proposals under assessment with critical information including project value, State Significance, time since referral, industry sector and status of assessment to enable early management intervention and to address any problems with assessments.</p>	<p>6-12 months</p> <p>Less than 6 months</p>	<p>a) Accepted.</p> <p>b) Accepted.</p>
24	<p>a) EPA/DWER to commission an external, non-legal review of the EIA Administrative Procedures 2021 to identify key opportunities for reform knowledge to remove unnecessary process and complexity to improve timeframes, as well as reporting on whether timeframes are met or not. Timelines should use 'calendar days' not 'business days'.</p> <p>b) EPA/DWER to conduct a rapid analysis of why the ARI level of assessment is not delivering expedited assessments and amend guidance and practice accordingly, including specifying timeframes for the various steps in the process.</p>	Less than 6 months	<p>(a) Accepted.</p> <p>(b) Accepted.</p>

25	<p>a) The EPA/Office of the EPA to develop an Escalation Protocol to enable early identification and resolution of assessment issues to senior executive management and the Chair to reduce time delays.</p> <p>b) b) Escalation protocols should be communicated to proponents to enable engagement at the appropriate level in DWER, where delays or requests for information are considered unreasonable.</p>	<p>Less than 6 months</p> <p>Less than 6 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p>
26	<p>a) Review EPA's technical guidance suite to ensure it reflects contemporary scientific understanding and a consideration of risk- based approaches to biodiversity protection.</p> <p>b) Consider establishing/re-establishing EPA Advisory Committees of (paid) subject matter experts, including EIA practitioners, to provide advice to the EPA on technical and implementation aspects of draft Guidance.</p>	<p>6-12 months</p> <p>6-18 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p>
27	<p>a) Amend s 41(3) of the EP Act to allow other Decision Making Authorities to issue their own approvals in parallel with the EPA's assessment and Ministerial decision making, while still preventing proposal implementation.</p> <p>b) In the short term, Streamline WA to develop clear guidance for all approvals agencies regarding the application of s 41(3) of the EP Act in relation to progressing assessment for secondary approvals. Legal advice should be sought about which secondary approvals are captured, e.g. granting of mine tenure.</p>	<p>6-18 months</p> <p>Less than 6 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p>
28	<p>a) Review the WA Government's Offsets Policy in terms of its overall effectiveness and application across government, including the Commonwealth Government, in moving towards nature-positive outcomes.</p> <p>b) Review the Pilbara Environmental Offsets Fund objectives, priorities and programs in consultation with</p>		<p>Noted.</p>

	<p>the Commonwealth to maximise its effectiveness in managing impacts to biodiversity from proposed development.</p> <p>c) Use the existing Perth/Peel strategic assessment information, research and work to progress as a priority, a Regional Plan for the Perth and Peel region in collaboration with the Commonwealth as part of the Nature Positive reforms.</p>	6-12 months	
29	MoUs should be developed or updated as a matter of priority between all agencies involved in referrals and information requests and their provision in the approvals processes.	Less than 6 months	Accepted.
30	EPA should review its policy and decision-making procedures requiring implementation of new or updated requirements during the course of an assessment to maximise the extent to which the requirements or provisions agreed by the EPA on referral, prevail.	Less than 6 months	Accepted.
31	<p>The EPA/DWER should develop performance metrics, including timelines in (revised) Administrative Procedures, for EIA and service provision and report against them in every EPA Assessment Report, in EPA's Annual Report and in the (recommended) Statement of Intent.</p> <p>Environment Online should be the key repository for all such performance information.</p>	Less than 12 months	Accepted.
32	The EPA should report to the Council of Regulators on the extent to which it is using s 38(G)4 and s 44(2AA) of the EP Act to enable other regulators/DMA's to regulate the cultural aspects of 'Social Surroundings' and Greenhouse Gas Emissions.	Less than 6 months	Accepted.

33	a) Closely engage with the Commonwealth environmental reforms in relation to a new national EPA and standards for MNES, and opportunities for partnering on regional planning initiatives.	6-12 months	Accepted.
	b) Updates to MNES threatened species lists and other regulatory standards for State and Commonwealth requirements should be undertaken at the same time to minimise risks of proponents conforming to one set of standards or criteria and not the other to the extent possible.	6-12 months	Accepted.
	c) Consider re-activating the Bilateral Assessment agreement with the Commonwealth.	6-18 months	Noted.
34	a) DWER and DPLH to urgently prioritise the finalisation of the Environmental Protection Amendment Regulations 2022 with joint agreement on definitions and scheme classification and deliver on the initial intent for the reforms in making a meaningful reduction in the number of schemes being referred to the EPA.	Less than 6 months	(a) Accepted.
	b) Establish a combined agency, Chair and Director General working group to facilitate a shared understanding in both departments of respective regulatory roles and increase the trust and understanding of each.	Less than 6 months	(b) Noted.
	c) Government consider amending the EP Act and the P&D Act to enshrine reciprocal EPA and WAPC board chair membership and the opportunity that may present to further reform, the referral of schemes and scheme amendments under s 48A.	6-18 months	(c) Accepted.
35	DWER and Office of the EPA to commission a review of EP Act Part V clearing regulations in relation to their timeliness, complexity and interaction and consistency with Part IV.	6-12 months	Accepted.

36	<p>a) As part of the review of EPA's Administrative Procedures, introduce timelines for DWER advice to EPA for its 'level of assessment' decision following analysis of public comments on referrals.</p> <p>b) Introduce KPIs/timelines for provision of EPA advice into the Appeals process.</p> <p>c) Government consider removing all appeal rights under Part IV of the EP Act and moving appeal rights under Part V to the State Administrative Tribunal.</p>	<p>6-12 months</p> <p>6-18 months</p>	<p>(a) Accepted.</p> <p>(b) Accepted.</p> <p>(c) Accepted.</p>
37	<p>a) Review how the 'social surroundings' definition in the EP Act (including subsection 2) interacts with other relevant pieces of legislation so as deliver holistic consideration of potential impacts to aboriginal cultural values from proposed development and their protection.</p> <p>b) The Council of Regulators to turn their collective minds to this complex issue.</p> <p>c) Develop an MoU between EPA and DPLH addressing cultural, social surroundings and landscape and amenity decision making responsibilities as a matter of priority.</p>	6-18 months	<p>(a) Accepted.</p> <p>(b) Subject to outcomes of review in recommendation 37(a).</p> <p>(c) Subject to outcomes of review in recommendation 37(a).</p>
38	The EPA should limit assessment of projects and proposals subject to the Commonwealth Safeguard Mechanism to meeting its statutory responsibilities while avoiding unnecessary duplication.	Less than 6 months	Accepted.
39	<p>a) Strengthen environmental data sharing regulations associated with the EP Act to ensure proponents cannot opt-out of sharing data collected for environmental assessment and monitoring purposes.</p> <p>b) Government to continue to fund and support the priority SEAF pilots in Cockburn and Pilbara and review the feasibility of a SEAF to develop and operationalise</p>	<p>6-18 months</p> <p>6-18 months</p>	<p>(a) Noted.</p> <p>(b) Noted.</p> <p>(c) Noted.</p>

	<p>prioritised environmental assessment and forecasting tools and reports for regulators and proponents.</p> <p>c) Government to engage with DCCEEW to pilot trusted national environmental data and information supply chains to better assess current and future state, condition and environmental trends of matters protected under the EPBC Act to streamline bilateral or accredited assessment within Western Australia.</p>	6-18 months	
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