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of Australia and  
New Zealand Inc.

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Via email: [Andrew.Baker@dwer.wa.gov.au](mailto:Andrew.Baker@dwer.wa.gov.au)

Dear Andrew,

**Re: Feedback from EIANZ members on Department of Water and Environmental Regulation (DWER) Draft Industry Regulation Guide to Licensing (Guide to licensing).**

The Environment Institute of Australia and New Zealand (EIANZ) (the Institute) Western Australia (WA) Division (the Division) is pleased to have this opportunity to provide comments on the Draft Industry Regulation Guide to Licensing (April 2018).

The EIANZ is the leading professional body in Australia and New Zealand for environmental practitioners, and promotes independent and interdisciplinary discourse on environmental issues. On all issues and all projects, the Institute advocates good practice environmental management delivered by competent and ethical environmental practitioners.

We forward this submission on behalf of the WA EIANZ members. The Division currently has approximately 140 members, while the Institute has over 1850 members across Australia in a range of technical disciplines including certified environmental practitioners (CEnVP), ecological consultants, environmental advocates and environmental impact specialists working in government, industry and the community.

Again, we thank the Department of Water and Environmental Regulation (DWER) for the opportunity to be engaged in its review of proposed regulatory amendments to categories 63-66, 89.

Yours sincerely

Belinda Bastow  
President  
EIANZ – WA Division

25<sup>th</sup> July 2018

# 1 Introduction

## 1.1 Background

The EIANZ WA Division is pleased to make comments on the DWER Draft Industry Regulation Guide to Licensing (Guide). This document provides guidance on the DWER's licensing framework for applicants proposing to construct or undertake activities regulated under Part V, Division 3 of the Environmental Protection Act 1986 (EP Act).

EIANZ considers that consultation with stakeholders is timely, to promote feedback on the effectiveness of the proposed changes to guidance, to identify any gaps, and encourage ideas on how the guidance can be improved. Widespread consultation is imperative to ensure the reformed guidance provides clarity and certainty for all users of the licensing framework.

EIANZ have engaged practitioners at a private briefing session hosted by DWER to support consultation on this Guide. Members have provided valuable feedback on the Draft Industry Regulation Guide to Licensing (Guide). EIANZ's submission provides direct responses to key issues of concern, and raises functional changes which could be made to resolve identified issues. EIANZ is hopeful these recommendations are included in future revisions of the Guide and/or public consultation, to ensure a more practical industry licensing regime can be achieved.

## 1.2 Role of the EIANZ

The EIANZ, as the leading membership based professional organisation for environmental practitioners in Australia and New Zealand, is an advocate for good practice environmental management. The Institute supports environmental practitioners and promotes independent and interdisciplinary discussion on environmental issues. The Institute also advocates environmental knowledge and awareness, advancing ethical and competent good practice environmental management.

A Certified Environmental Practitioner Scheme ([www.cenvp.org](http://www.cenvp.org)) is also in place to assess and certify competent experienced environmental practitioners working in government, industry and the community. This includes specialist competencies such as Impact Assessment, Ecology and Contaminated Lands.

The EIANZ is an advocate for environmental assessment, management and monitoring investigations and reports being certified by suitably qualified and experienced persons for the completeness and scientific rigor of the documents. One of the ways of recognising a suitably qualified practitioner is through their membership of, and certification by, an organisation that holds practitioners accountable to a code of ethics and professional conduct, such as the EIANZ.

The EIANZ is a not-for-profit, charitable organisation incorporated in Victoria, and a registerable Australian body under the Corporation Act 2001 (Cwlth), allowing it to operate in all Australian jurisdictions.

## General Observations

### *Commissioning*

In EIANZ's view, and based on member feedback, greater clarity regarding the definition and duration of commissioning is required in the guidance, or DWER could use another term to avoid confusion associated with the engineering definition of commissioning. Any revision needs to clearly indicate that the commissioning of new infrastructure is covered by a Works Approval as long as a detailed commissioning plan (i.e. staged works approval application) is included. It may also be necessary to allow for further details to be provided subsequent to granting a works approval but (as a condition) prior to the commencement of that phase of commissioning.

In addition, there are facilities such as a landfill or bulk chemical storage requiring no commissioning phases, and a delay between Works Approval and a Licence of up to 60 business days would prevent the use of any facility. An alternative approach is required to transition licensees from construction to operation of such facilities without interruption.

#### *Timeframes and processing of applications*

The DWER have advised that it will no longer accept concurrent applications for works approvals and licences based upon legal advice it has received. The EIANZ is concerned that this will significantly delay the review of applications and ultimately lead to poor decisions being made by decision-makers and result in impacts to the environment. The EIANZ considers that the DWER should continue to maintain all possible flexibility within its policy framework regarding the implementation of Part V of the EP Act including ensuring that it does not unnecessarily restrict its actions beyond the scope of intent of the EP Act. For example, s53(1)(f) allows for the use of a licence amendment, works approval, closure notice or environmental improvement notice to make changes to a prescribed premise. However, the Draft Guideline is suggesting a much more restrictive approach through the preference for a Works Approval over other mechanisms. This preferred approach outlined in the draft Guidelines does not promote any environmental benefit and may ultimately just add regulatory burden and timeframes to assessment periods.

#### *Factsheets*

DWER has confirmed its intention to develop various category-based factsheets. However, it is understood factsheets will not be compiled for all categories and all potential factsheets cannot be released at once. DWER requested attendees indicate in their submission which categories (if any) they felt required a factsheet and the priorities for development of factsheets. EIANZ support implementation of the Industry specific fact sheet and suggests that the factsheet be developed in order of potential impacts to the environment. For example, those prescribed premises activities with significant risk or impact to the environment such as but not limited to Mineral Processing, Power Generation, Hazardous Waste Facilities, Intensive Agriculture.

In addition, EIANZ recommend these factsheets provide greater clarification of DWER's expectations for each category. For example, a better definition of dewatering activities under category 6 is required. There are still examples in WA where the use of mine pit water for dust suppression and processing is classed as dewatering even though a proponent is already required to hold a licence under RIWI Act. It is acknowledged that some mine dewatering may contain elevated metals and thus could create an environmental impact, however this could be assessed as part of the Cat 5 works approval or licencing. The definition of dewatering should be revised (i.e. limited) to activities where surplus water is released to surface environments (i.e. wetlands) or re-injected into the ground (i.e. aquifer).

#### *Mine dewatering*

A works approval is currently required for mine operations which undertake dewatering activities and discharge surplus water to the environment (category 6 mine dewatering). Mine dewatering has the potential to cause environmental harm or degradation to downstream environments, including, but not limited to:

- I. Eutrophication and algal blooms - the exposure of potentially nutrient enriched groundwater to the receiving creekline, leading to eutrophic conditions and algal blooms.
- II. Thermal pollution - increased water temperature to the receiving creekline.
- III. Acid and metalliferous mine drainage (AMD) - causing decreased pH and increased dissolved metal concentrations.
- IV. Creekbed armouring - increased concentrations of major ions, and the potential for streambed compaction due to ion precipitation (CaCO<sub>3</sub>).
- V. Saline intrusion - the exposure of saline groundwater to the receiving creekline.
- VI. Erosion and siltation - the scouring and erosion of the receiving creekline caused by discharge, with increased siltation and turbidity, leading to the smothering of habitats and suffocation of aquatic fauna.

It is apparent there is a lack of clear and consistent environmental monitoring conditions (i.e. parameters, frequency of monitoring) for emissions to surface water and/or groundwater. A lack of transparency around the application of water quality criteria, monitoring requirements and what desired environmental objective/outcome it aims to achieve, undermines community faith in environmental regulation. ANZECC / ARMCANZ (2000) provide default trigger values for physical and chemical stressors and toxicants. These water quality criteria should be applied in all instances where dewatering activities have potential to impact identified environmental values. Application of Australian Drinking Water Guidelines (ADWG 2011), although providing a risk-based assessment to public health do not provide sufficient ecosystem protection, nor do water quality guidelines provided for Livestock guidelines. Application of the more conservative ANZECC / ARMCANZ (2000) guidelines inherently provides sufficient protection for public health and livestock. Monitoring conditions should consider alignment with ANZECC / ARMCANZ (2000) guidelines, including:

- I. laboratory (NATA accredited) analysis to be undertaken at sufficient detection level to allow a comparison against the 99% protection trigger values for freshwater ecosystems in ANZECC/ARMCANZ Guidelines 2000.
- II. physical parameters such as pH, dissolved oxygen and turbidity should be field measured (i.e. In-situ).
- III. compliance monitoring location should allow for a mixing zone, small enough to minimise the potential for ecological detriment, but large enough to allow sufficient mixing (i.e. dilution) with ambient waters.
- IV. the frequency of monitoring a discharge, or ambient water, will depend on the objective of the testing, and on the nature of the discharge or receiving water. If the discharge composition varies considerably and unpredictably, testing should be undertaken on a frequent basis (e.g. monthly). In addition, if the receiving water varies seasonally, monitoring should be carried out whenever such a change is known to occur.

#### *Guide Detail*

The Guide is currently lacking the level of detail that a new person to WA would require. The is also not enough information for anyone who is not familiar with the licence/work approval process and what is required in an application. EIANZ recommends the Guide is reviewed to ensure it has sufficient detail such that a person compiling a submission does not need to engage an external consultant for simple works. A few worked case examples in the Guide would provide greater transparency on the process.

The Guide should also remove references to where it has been varied from the previous guideline. While this was helpful during the consultation phase to understand the proposed changes, it will unnecessarily complicate the utilisation of the document in its final format.

## **Conclusion**

The EIANZ WA Division is pleased to make comments on the DWER Draft Industry Regulation Guide to Licensing (Guide). EIANZ is focused on amendments which provide greater clarity to users and a more practical industry licensing regime.

If you have any further queries regarding the above matters, please contact Belinda Bastow, President EIANZ WA Division on [wa@eianz.org](mailto:wa@eianz.org)