



## WESTERN AUSTRALIAN LAND ACCESS WORKING GROUP

### TERMS OF REFERENCE

#### BACKGROUND

In August 2013, the Standing Committee on Environment and Public Affairs identified the emerging unconventional gas industry in Western Australia was a source of community interest and concern.

As a result, the Standing Committee undertook a two-year investigation of hydraulic fracturing and its implications for the State, with particular emphasis on environmental considerations. The Standing Committee tabled its Report 42 on 17 November 2015, which included 12 recommendations.

A whole of Government response to the recommendations was subsequently tabled in the Legislative Council on 16 March 2016.

The Government response to Recommendation 6 noted a new model agreement for access to agricultural land, developed by the petroleum industry and farmer groups through extensive consultation, was announced on 30 October 2015. The agreement was endorsed by the Australian Petroleum Production and Exploration Association, Western Australian Farmers Federation (Inc), Pastoralists and Graziers Association of Western Australia, and vegetablesWA.

The Government's response to Recommendation 5 (establishment of a statutory body) and Recommendation 6 (establishment of a working group to draft legislation for a statutory framework for land access agreements) provide the basis for establishment of this working group.

Establishment of the Working Group was confirmed by the Minister for Mines and Petroleum, Hon Sean L'Estrange MLA, in a media statement on 15 September 2016 which stated "The Land Access Working Group will review existing provisions under the State's mining and petroleum legislation, with a primary focus on onshore petroleum".

#### 1. ROLE

The role of the Western Australian Land Access Working Group is to:

- (i) consider existing provisions in the Western Australian mining and petroleum legislation in relation to land access for private land, with a primary focus on onshore petroleum, and mining where relevant;
- (ii) consider other jurisdictions' land access arrangements for private land, both legislative and non-legislative, where necessary and appropriate;
- (iii) identify and make recommendations for changes to Western Australian farming land access agreements for petroleum and mining;
- (iv) consider and make recommendations in relation to the need for a statutory framework for land access agreements between landowners and resource companies; and
- (v) provide a report and recommendations for consideration by the Western Australian Government in relation to (i) to (iv) above by 31 December 2017.

## 2. MEMBERSHIP

2.1 The Western Australian Land Access Working Group will consist of:

**one member** from each of the following industry groups:

- (i) Association of Mining and Exploration Companies (AMEC);
- (ii) Australian Petroleum Production and Exploration Association (APPEA);
- (iii) Chamber of Minerals and Energy of Western Australia Inc. (CME); and

**one member** from each of the following agricultural groups:

- (iv) Pastoralists and Graziers Association of WA (PGA);
- (v) vegetablesWA;
- (vi) Western Australian Farmers Federation (WAFarmers); and

**two members** representing local government, on the nomination of the:

- (vii) Western Australian Local Government Association (WALGA); and

**two members** representing conservation interests, on the nomination of the:

- (viii) Conservation Council of Western Australia; and

**one member** representing Aboriginal interests, on the nomination of:

- (ix) to be determined; and

**one ex-officio member** from each of the following State Government agencies:

- (x) Department of Aboriginal Affairs (DAA);
- (xi) Department of Lands (DoL);
- (xii) Department of Mines and Petroleum (DMP);
- (xiii) Department of Planning (DoP);
- (xiv) Department of Water (DoW);

**and**

- (xv) the Director General of the Department of Mines and Petroleum as Chair.

2.2 In the event the Director General is not available, the Chair for that meeting will be the Director General's nominee from the Department of Mines and Petroleum.

2.3 Members may nominate a proxy member to attend in the event of their absence, subject to the name of the proxy member being provided at the time of the member's nomination to the Department of Mines and Petroleum.

2.4 By way of a consensus decision, the Working Group may establish sub groups from time to time.

2.5 The Working Group may invite other persons to provide information to the members as deemed appropriate and with prior approval of the Chair.

2.6 Members of the Working Group may, on occasion, request an observer to attend the meeting for a specific agenda item, with the prior approval of the Chair.

## 2.7 Responsibilities of members:

Members of the Working Group will:

- (i) attend all Working Group meetings. If a member cannot attend, they should submit an apology and may request their nominated proxy to attend on their behalf;
- (ii) participate and work cooperatively to achieve agreed goals; and
- (iii) prepare for meetings by liaising with their member groups to provide an informed and collective view on issues being considered by the Working Group.

2.8 Ex-officio members will not form part of the quorum. These members will provide technical advice as required.

## 3. MEETING PROCEDURES

### 3.1 Quorum

A meeting of the Working Group requires a quorum of **half** its membership appointed under 2.1(i) to 2.1(ix), **and the member** appointed under 2.1(xv) or 2.2.

### 3.2 Conflict of Interest

As the Western Australian Land Access Working Group is an advisory body only, it is not considered necessary for members to declare any actual or perceived conflicts of interest, unless a member so chooses. In that case, the declaration will be recorded in the minutes of that meeting.

Members of the Working Group will represent the interests of their member groups and should refrain from raising issues of a personal nature at meetings. Such issues can be raised through the usual departmental channels.

### 3.3 Decision Making

As an advisory body the Working Group's advice and/or recommendations, which are to be presented to the State Government (through the Minister for Mines and Petroleum), will be made by consensus.

Where consensus cannot be reached, the dissenting views of the member/s will be recorded in the minutes and those views will also be presented to the Minister by the Chair.

### 3.4 Confidentiality

It is important for members to feel free to contribute honestly and openly, and that there is a level of trust between the members.

All electronic and written documents are provided to Working Group members with the expectation that members will distribute these documents responsibly and only for obtaining feedback from the groups they represent.

No views, documents or information presented during, or outside of, the Working Group's meetings are to be made available publicly or to the media without the explicit agreement of the Chair.

### 3.5 Meetings

The Working Group will meet at least bi-monthly, unless agreed otherwise.

### **3.6 Minutes of Meetings**

Minutes of each meeting will be recorded by the Executive Officer to the Working Group. The draft minutes will be presented in the agenda papers for ratification at the next meeting.

A separate action sheet will be provided to all members within one week after the meeting.

Draft minutes of the meeting will be distributed to members within two weeks of the meeting, as far as is practicable.

A meeting communique will be published on the Working Group's webpage (on DMP's website) for public information.

### **3.7 Executive and Research Support**

Executive, research and administrative support will be provided by DMP, including:

- (i) advising members of the meeting date by way of a meeting request;
- (ii) calling for agenda items four weeks in advance (as far as is practicable);
- (iii) preparing and distributing the agenda and supporting papers for each meeting at least two weeks prior to the meeting (as far as is practicable);
- (iv) taking minutes of each meeting; and
- (v) coordinating follow up action as determined in that meeting.

## **4. QUERIES**

Any queries in relation to the Working Group should be directed to the Chair or the Executive Officer by email to [LandAccessWA@dmp.wa.gov.au](mailto:LandAccessWA@dmp.wa.gov.au).