



Government of **Western Australia**
Department of **Mines and Petroleum**



DMP Transparency Initiatives
– Environment Plan Summary Submission
Process: Responses to Comments

Received in December 2016

Introduction

Environmental regulation of onshore petroleum and geothermal activities in Western Australia (WA) is administered by the Department of Mines and Petroleum (DMP). DMP's Environment Division regulates the WA onshore petroleum and geothermal industry under the following legislation:

- *Petroleum and Geothermal Energy Resources Act 1967*
- Petroleum and Geothermal Energy Resources (Environment) Regulations 2012
- *Petroleum Pipelines Act 1969*
- Petroleum Pipelines (Environment) Regulations 2012

The DMP is committed to improving transparency to ensure that regulatory decision making and investment attraction processes, together with the technical information and data supporting them are publicly available for the benefit of the Western Australian community.

The aforementioned regulations (the Regulations) outline the requirements for an Environment Plan (EP) to be submitted and approved by DMP prior to the commencement of any petroleum or geothermal activity. The Regulations also require operators to submit a summary of the environment plan for public disclosure.

The regulations require an EP Summary document to set out details of the following:

- Contact details of the operator of the activity or the operators agent.
- The location/s of the activity.
- A general description of the existing environment that may be affected by the activity.
- A summary of the:
 - details of the construction and layout of any facility
 - operational details of the activity and proposed timetables
 - environmental impacts and environmental risks of the activity
 - implementation strategy included in the EP
 - consultation that has been undertaken during the development of the EP and that is to be undertaken in accordance with the implementation strategy.

In March 2016, DMP implemented a revised EP Summary submission process which resulted in two key changes:

1. Operators are to submit public disclosure documents at the time of their EP initial submission. The change to the submission process has been made to enable the public to view information regarding petroleum and geothermal activities prior to activity approval. The change to the submission process was implemented to align with the department's [transparency policy](#) and ensure timeliness and accessibility of information to the community was addressed.

2. Operators are provided with options and the flexibility to submit either the full environment plan document (full disclosure of information) or an environment plan summary document. The options available to operators are:

Option 1 - Select the full EP submitted for assessment which will be used as the public disclosure document.

Option 2

- a) Attach a public version of the EP, with confidential content removed, to be used as the public disclosure document

or

- b) Attach an EP Summary that meets the requirements of regulation 11(8), to be used as the public disclosure document at time of EP lodgement.

The review of the EP Summary submission process supports the initiative of the Reforming Environmental Regulation (RER) program. The objective of the RER program is to implement the principles of best practice regulation of the resources sector to ensure environmental integrity is maintained.

Stakeholder Comments

On 16 November 2016 DMP provided relevant stakeholders the opportunity to provide feedback on the EP Summary submission process closing on 30 November 2016.

Stakeholders were informed that feedback on the EP Summary submission process would be made publicly available on the DMP website. Where requested, personal details or company names attributed to the feedback received could be made confidential. For those stakeholders providing confidential feedback, this is represented as an In Confidence entry in Table 1 below.

During the public feedback period, submissions were received from the following stakeholders:

- Elizabeth Smith – APA Group
- David Tooth – Empire Oil and Gas NL
- Bronwyn Bell – Chamber of Minerals and Energy WA
- Celia Antonovsky – Condor Energy
- Morrie Goodz - Goodz & Associates GMC Pty Ltd
- 14 confidential stakeholders.

A total of 15 suggestions/comments on the EP Summary submission process were received from 19 stakeholders during the eight week public feedback period. DMP responses to the comments/questions received are provided in Table 1 below.

The key themes of the feedback received were:

- The level of information in the EP Summary documents disclosed to the public is appropriate.

- Preference that EP Summary documents are submitted post EP approval and/or EP Summary documents are reviewed and approved by DMP prior to public disclosure.
- Concern over the impact to projects and businesses over the disclosure of information to parties that would not be directly affected by the activities (e.g. general public, media etc.).
- Concern over the release of information to the public in a document prior to DMP approval may result in inaccuracies with data released to the public (e.g. public may be reviewing information which bears little resemblance to the final approved EP).

All stakeholder comments are presented in the form they were submitted, and no edits to the text have been undertaken.

DMP would like to take the opportunity to thank stakeholders for their considered feedback on the EP Summary submission process and for providing valuable input into the process.

Table 1: DMP Transparency Initiatives – Comments on the Environment Plan Summary Submission Process

Respondent Number	How supportive are you of the revised Environment Plan Summary submission process Not at all Supportive (1) to Extremely Supportive (10)	Stakeholder	Potential Improvements and Comments	DMP Response/Action
General Comments				
1	Respondent skipped this question.	Respondent skipped this question.	Respondent skipped these questions.	NA - no comment provided to respond to.
2	Respondent skipped this question.	In Confidence	Respondent skipped these questions.	NA - no comment provided to respond to.
3	5	In Confidence	Respondent skipped these questions.	NA - no comment provided to respond to.
4	10	In Confidence	<p>Potential Improvements - Vetting of summary by DMP before publication</p> <p>Comment - Whilst transparency is in general a good thing, there is always the possibility that the public disclosure of information provided at the same time as an EP submission may lead to a delay in the approval process. Irrespective of the intent of changing the process, there will inevitably be attempts from an activism viewpoint to frustrate the process.</p>	<p>Vetting of EP Summary documents prior to publication may result in an increase in DMP's assessment timeframes, therefore this suggestion has not been implemented at this stage.</p> <p>DMP in consultation with industry have developed guidelines e.g. <i>Guideline for the Development of Petroleum and Geothermal Environment Plans in Western Australia – November 2016</i> to assist operators with the development of public disclosure documents that meet the regulatory requirements. Operators are required to prepare competent applications in accordance with the available guidelines to enable DMP to assess and confirm that regulatory requirements have been met.</p> <p>During the trial period DMP did not have any assessment delays as a result of the revised EP Summary submission process.</p>

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General Comments				
5	8	In Confidence	<p>Potential Improvements - No</p> <p>Comment - We are supportive of the current system which provides the opportunity for operators to provide either a summary document or full environment plan as the public disclosure document. It is important to bear in mind that the EP is a technical document prepared to ensure the environmental risks associated with the petroleum Activity are managed to ALARP and an acceptable level, not a document for communication with the general public, most of which are not experts in their field. For an environment plan to be effective, Operators must consider all risks of petroleum activities in an environment plan, no matter how unlikely it is that the event will occur during operations. In contrast, opponents of the industry regularly take worst-case scenarios presented in approvals document and portray these as “likely” which causes unnecessary alarm and angst among the general population and undermines the credibility of the approvals process. The summary document is a summary of the information presented in the EP it is prepared to provide sufficient information for a layperson in the field to understand the risks associated with an Activity and how these will be managed by the operator. Importantly, the document also includes the contact details of the Company should individuals or organisations require further information. In the four years since the Company has been making EP Summary’s available online via PGER and our website, the Company has been contacted seeking further information on an activity less than five times. This indicates that the level of information provided in the public summary document is appropriate.</p>	<p>DMP acknowledges the comment and thanks you for your support. The revised EP Summary submission process provides operators with the flexibility to submit either the full EP or a separate EP Summary document for public disclosure. DMP will continue to review opportunities for improvement in transparency of information relating to petroleum activities.</p>
6	5	Elizabeth Smith – APA Group	<p>Potential Improvements - No</p> <p>Comment - We believe the process under the current regulation 11(8) of submission of an environmental summary document 10 days after approval by the Minister is preferred.</p>	<p>The EP Summary submission process review has identified that it may take up to four weeks after an Environment Plan has been approved for an Environment Plan summary to be made publicly available on the DMP website. This delay is inconsistent with community expectations and DMPs transparency policy. DMP is committed to keeping stakeholders informed of issues that affect them by providing transparent, timely, consistent and accessible information.</p> <p>Concerns have been raised regarding the timeframe associated with the submission and disclosure of the Environment Plan summary. Subsequently DMP have implemented this revised EP Summary submission process to address this issue.</p>


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7	7	In Confidence	<p>Potential Improvements - The current process potentially results in multiple revisions to the EP Summary</p> <p>Comment - <i>We</i> (company name removed) support the ability to submit an EP summary as opposed to the whole EP.</p>	<p>The change to the EP Summary submission process provides operators the flexibility to submit either the full document or a summary document at the time of EP submission. Regulation 11 (8) of the Petroleum and Geothermal Energy Resources (Environment) Regulations 2012 clearly specifies the information that operators are required to disclose to the public.</p> <p><u>Please refer to comment 4</u> regarding available guidelines and the requirement for operators to prepare competent applications</p>
8	Respondent skipped this question	In Confidence	Respondent skipped these questions	NA – no comment provided to respond to
9	4	In Confidence	<p>Potential Improvements - I don't believe that we should be putting a document out to the public before it has been approved by the DMP. I am happy for the public to view upcoming events and allow them to have comment but not on a generic EP that has a lot of content missing as it will be provided in a Bridging document</p> <p>Comment - Respondent skipped this question</p>	<p><u>Please refer to comment 6</u> regarding concerns relating to making EP Summary documents available in a timely manner.</p> <p><u>Please refer to comment 4</u> regarding available guidelines and the requirement for operators to prepare competent applications</p> <p>The revised EP Summary submission process does not impact the environment plan and bridging document submission process.</p>
10	1	In Confidence	<p>Potential Improvements - The submission of a summary document at the same time as the first draft original is prohibitive. The two documents then have to be tracked for changes together almost doubling the time involved in edits. The submission of a document that is not approved and making it publicly available is potentially providing the public with information that is incorrect. If the public comment on a document from the first pass, the DMP is only adding to their own burden of sorting out public concern over items that may never be in final approved document.</p> <p>Comment - Respondent skipped this question</p>	<p><u>Please refer to comment 4</u> regarding guidelines available to operators when developing EP and EP Summary documents to assist in meeting regulatory requirements.</p> <p>As a result of the revised EP Summary submission process, DMP's assessment timeframes have not been negatively affected.</p>
11	7	Morrie Goodz - Goodz & Associates GMC Pty Ltd	<p>Potential Improvements – Some information that is classed as confidential can be of substantial benefit to other submissions made on similar or nearby projects. There should be some way that applicants can share this information and that it is compiled into a departmental database for future reference. This type of data sharing will save tremendous re-work and will also save consider time if collection of data requires seasonal activities or specific climatic conditions/events to be present at the time of data collection.</p> <p>Comment - Having to carry out flora, fauna and cultural surveys on areas that have been previously surveyed, but the previous surveys were either confidential or not properly maintained for future reference purposes.</p>	DMP notes the comment however this is outside of the scope of the EP Summary submission process.

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12	2	In Confidence	<p>Potential Improvements – EP’s and EP summaries should only be made public once they are approved.</p> <p>Comment - The submission and approval of an EP is a time consuming and tortuous affair. The documents have now grown to 400-600 pages and in many cases, when a new operation is an adjunct to something that has already taken place (e.g. second well) are not delivering any value to the environment nor to the operations. The process has become unwieldy and has the impost of creating a summary is just adding to the regulatory burden.</p>	<p>Please refer to comment 6 regarding publication of EP Summary documents prior to EP approval.</p> <p>Please see response to comment 7 regarding the flexible options available to operators when submitting approval documents for public disclosure.</p> <p>Please refer to comment 4 regarding available guidelines and the requirement for operators to prepare competent applications</p>
13	1	In Confidence	<p>Potential Improvements - It is noted that there is no formal process for comment on the EP once made publically available. It is understood that DMP anticipate interested stakeholders would contact the company representative to raise queries or concerns and that the company would then update the EP as required in response to this. This process (if exercised) would be both inefficient (opening companies up to further delays during the assessment phase) and unregulated (as the Department play no role as an independent mediator in ensuring comments are received and addressed). A better option lies in status quo, whereby proponents are required to identify and consult with affected stakeholders during the project planning phase and report on the outcomes of this in the Environment Plan. The DMP are then required to assess the adequacy of the consultation program reported to have been undertaken.</p> <p>Comment - In looking for the potential benefits of this approach to transparency – there is just one clear winner. The media. Acknowledging the uncertainty surrounding government assessments, many projects are not subject to a Financial Investment Decision (FID) until after all regulatory approvals have been obtained. Prior to FID, project information is highly sensitive and as such, highly attractive to journalists. We have experienced inaccurate and damaging print publications as a direct result of transparency required under the EP Act. Increasing the opportunity for this mismanagement of sensitive information would only be of frustration to us, particularly acknowledging the absence of a formal process to enable any real benefit to intended stakeholder (the general public).</p>	<p>During the trial period DMP did not have any assessment delays. DMP were not advised of any negative outcomes from industry as a result of the revised EP Summary submission process.</p> <p>Operators are required to consult all relative stakeholders in accordance with the requirements of the regulations. Adequate consultation with stakeholders will mitigate potential delays to project approvals. The <i>Guideline for the Development of Petroleum and Geothermal Environment Plans in Western Australia – November 2016</i> provides operators with detailed guidance on the consultation requirements.</p> <p>In investigating these proposed changes, DMP has considered the approach to transparency of petroleum environmental approvals being applied in other jurisdictions in Australia. This process has indicated that the proposed changes are consistent with the leading practices already adopted in comparable resource jurisdictions such as Queensland. This level of transparency will bring Western Australia in line with other jurisdictions such as Queensland, where the Environmental Authorities have made the supporting application information publicly available.</p>

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General Comments				
14	10	Celia Antonovsky – Condor Energy	<p>Potential Improvements – I think it should be full disclosure of environmental plans so that issue motivated groups and individuals cannot claim that information was withheld.</p> <p>Comment - I think it should be full disclosure of environmental plans so that issue motivated groups and individuals cannot claim that information was withheld. Or alternatively - a summary could be published and a full version available upon request (therefore being able to monitor who is accessing the documents)</p>	Please refer to comment 7 regarding the flexibility to submit either the full document or a summary document at the time of EP submission and the guidelines available to industry to assist operators in developing environment plans and public disclosure documents that meet the regulatory requirements.
15	4	Bronwyn Bell – Chamber of Minerals and Energy WA	<p>Potential Improvements - CME WA supports the disclosure of environmental information to the public where the information is of interest and relevance to the public, and is not commercially confidential or has the potential to unnecessarily impact on the business. CME WA has concerns with the current process as it requires information to be disclosed to the public in advance of any comments from DMP. This means that information disclosed may be significantly different from that which is eventually approved and hence the public may be reviewing information which bears little resemblance the EP that will eventually be relevant. This may cause the company unnecessary negative reputation and community impacts if amendments are required which are simple and easy for the company to implement upon receipt of advice from DMP.</p> <p>Comment - Respondent skipped this question</p>	Please refer to comment 4 regarding available guidelines and the requirement for operators to prepare competent applications
16	6	David Tooth – Empire Oil and Gas NL	<p>Potential Improvements - Whilst transparency is in general a good thing, there is always the possibility that the public disclosure of information provided at the same time as an EP submission may lead to a delay in the approval process. Irrespective of the intent of changing the process, there will inevitably be attempts from an activism viewpoint to frustrate the process.</p> <p>Comment - Respondent skipped this question.</p>	During the trial period DMP did not have any assessment delays and no negative outcomes were raised by industry as a result of the revised EP Summary submission process.

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General Comments				
17	6	In Confidence	<p>Potential Improvements - Remove the timing differential (10 days) for lodging the summary. Allow submission of an entire EP/EPBD as a summary if the operator is happy with that. Otherwise, the summary should be prepared and lodged at the same time as EP [content in line with 11(8)] on EARS when uploading the full EP. That way, there is removal of additional approval letter, time differential (10 days plus assessment) before made public.</p> <p>Comment - As above. Some flexibility regarding the content (partial summary or lodging full EP/EPBD) for public consumption would be good. As long as there is a 'Minimal Requirement' standard, then the operators can decide what approach to take. All of it should be done through EARS.</p>	<p>DMP thanks you for the support and notes that the suggested potential improvement and comment reflect the current revised EP Summary submission process.</p> <p>The changes to the EP Summary submission process allows for the flexibility suggested, with operators provided with the option of submitting either the full document or a summary document at the time of Environment Plan submission. Regulation 11(8) outlines the information that is required to meet the minimum regulatory requirements.</p>
18	5	In Confidence	<p>Potential Improvements - We are supportive of the public having access to information regarding approved petroleum and geothermal activities in a timely manner. Publication of Environment Plans (EPs) in full or in summary on application does not meet this objective and there are more effective ways to improve transparency of petroleum and geothermal activities. In addition, any change needs to be considered as part of an overall legislative and regulatory framework. Specific issues that should be addressed include the way EPs are written and ensuring EPs are proportionate to the scale and nature of activities proposed to be undertaken. We recommend further engagement with industry on the operation of the regulatory system as a whole to ensure that the multiple objectives of simplification, transparency and sound regulatory decisions are met in an integrated fashion.</p> <p>Comment - It is important that any changes are implemented in a coordinated way across government. For example, earlier this year we submitted an EP summary on application as required by DMP which was then published on the DMP website. This generated a media inquiry in relation to the EP which in turn generated a question from another section of DMP as to why we had made this information public. This indicated that this process was implemented in an ad hoc rather than in a coordinated way across the DMP and government.</p>	<p>DMP thanks you for your support regarding improving transparency initiatives. The revised EP Summary submission process is in line with DMP's transparency policy.</p> <p>DMP notes that the objective of the <i>Guideline for the Development of Petroleum and Geothermal Environment Plans in Western Australia – November 2016</i> is to ensure that EP submissions are targeted and proportionate to the nature and scale of the activity.</p> <p>The regulations have been in place since 2012 and DMP are looking to conduct a review and note that further improvements to transparency will be assessed as part of this process.</p> <p>DMP has a department wide policy for improving transparency supported across government.</p>

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General Comments				
19	Respondent skipped this question	In Confidence	<p>Potential Improvements -Respondent skipped this question.</p> <p>Comment - I understand the desire to expedite timeframes associated with Environment Plan submissions and disclosure of Environment Plan summaries, which have not been made available on the DMP website for up to four weeks following approval. Under current Regulatory requirements, operators are required to submit Environment Plan summaries within ten days following Environment Plan approval. The email indicates that operators will, for the trial period, be required to submit a Public Disclosure Document at the time of Environment Plan submission.</p> <p>The issue with early disclosure is that it will invite objections and appeals prior to assessment by the DMP (and other agencies with which the DMP consults) and feedback to the operator, which will likely result in modifications to the Environment Plan. In other words, it may inflame other parties (other than stakeholders consulted as part of Regulatory requirements) on the basis of a preliminary Environment Plan. Additionally, parties that would not be directly affected, such as those overseas or interstate, may make submissions on a general principles basis.</p> <p>The process will be a doubling up of requirements included in the Regulations and Draft Guidelines for Development of Petroleum and Geothermal Environment Plans in Western Australia of February 2016. The Regulations provide that adequate consultation be undertaken between the operator and relevant authorities, interested persons and organisations and an engagement summary is to be provided in the Environment Plan. Consultation is to be undertaken throughout the Environment Plan process from planning and Environment Plan development. The operator must provide all stakeholders with a reasonable timeframe to review, consider, and respond. Operators must demonstrate that Principles of Stakeholder Engagement have been addressed.</p> <p>It would seem more effective if the DMP would, close to the time, notify operators of the estimated approval date and any conditions that would be placed on the approval and an Environment Plan summary required to be submitted prior to final approval. This will allow the Environment Plan summary document to reflect the final Environment Plan and still provide it to be made public in a timely manner.</p>	<p>Public disclosure documents are required to be submitted at the time of Environment Plan submission. Please refer to comment 6 regarding the requirement to adjust the EP Summary submission process.</p> <p>Please refer to comment 13 regarding appropriate consultation, regulatory requirements and the results of the EP submission trial process</p> <p>DMP has developed detailed guidance to assist operators in developing environment plans and public disclosure documents that meet the regulatory requirements. Operators are expected to submit quality documents that meet the regulatory requirements.</p> <p>The submission of EP Summary documents post EP approval is not in line with community expectations and DMPs transparency policy.</p>

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Government of Western Australia
Department of Mines and Petroleum
Mineral House, 100 Plain Street
East Perth, Western Australia 6004

Tel: +61 8 9222 3333
Fax: +61 8 9222 3862
Email: dmp@dmp.wa.gov.au
Web: www.dmp.wa.gov.au

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