

**REVIEW OF
ENVIRONMENTAL IMPACT ASSESSMENT
ADMINISTRATIVE PROCEDURES**

**Report of the
Environmental Protection Authority**

Environmental Protection Authority
Perth, Western Australia
Bulletin 402 September 1989

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SUMMARY

The Environmental Protection Act 1986 makes the Environmental Protection Authority responsible for determining the procedures applying to environmental impact assessment.

The EPA has reviewed the current procedures. As part of this review the EPA invited Dr John Bailey and Ms Moira Finucane to prepare a report to the EPA.

The preparation of this report involved invited input from the EPA's major customer groups. It was released to the general public for comment. The EPA acknowledges the valuable contribution to the Authority's review of procedures made by this report and those who contributed to it.

After considering this report and the submissions received on it the EPA has decided to modify its procedures.

There has been some confusion caused by the use of the term Notice of Intent (NOI) to refer to:

- . the letter referring a proposal to the EPA for assessment;
- . an initial brief proposal description on the basis of which a level of assessment can be set; and
- . a level of assessment involving consultation with other agencies and, sometimes, members of the public.

The EPA proposes to remove this confusion by introducing the following terminology:

TERMS FOR REFERRAL

There are five ways in which a proposal can come to the EPA's attention. It may be referred to the Authority by the proponent, a decision-making authority or a third party, the Minister may ask the Authority to assess it or the EPA itself may call it in for assessment.

In all cases, once the EPA has received sufficient basic information about the proposal it decides firstly whether the proposal requires formal assessment and secondly what the level of formal assessment will be.

In the past this basic information has often been contained in a letter or in the document called Notice of Intent.

While the Authority will continue to receive such referral information in letters, a form is being introduced to assist those unsure of the details required by the Authority. This form may have attachments and, where these are substantial, the resultant document may be equivalent to the old Notice of Intent. However, in all cases, this communication is now to be called a Proposal Application.

PROPOSAL APPLICATION

A letter or one-page form giving sufficient details of a proposal to allow the level of assessment to be set. This information would be publicly available (subject to the commercial confidentiality provisions of the Environmental Protection Act).

The form may be supplemented by attachments or a document giving more detailed information about the proposal. This would also be publicly available, and for major proposals some form of dissemination to the affected public would be required. For proposals with minor environmental impacts this documentation may be adequate for the EPA's assessment.

TERMS FOR ASSESSMENT

There will continue to be the provision of informal advice and three levels of formal assessment under Part IV of the Environmental Protection Act:-

INFORMAL REVIEW WITH PUBLIC ADVICE

Those proposals not formally assessed may be reviewed at Divisional level, with the provision of advice to the proponent but no formal report or condition setting. The review may involve consultation with other Government agencies, and the EPA's advice is publicly available.

CONSULTATIVE ENVIRONMENTAL REVIEW (CER)

Formal environmental assessment involving consultation with appropriate Government agencies and groups and members of the public directly interested or affected. The period for public consultation will usually be 4 weeks.

PUBLIC ENVIRONMENTAL REVIEW (PER)

Formal environmental assessment with full public review of 8 weeks.

ENVIRONMENTAL REVIEW AND MANAGEMENT PROGRAMME (ERMP)

Formal environmental assessment with full public review of 10 weeks. If this assessment requires the preparation of a separate management plan, that plan and the EPA's assessment of it are to be made public.

The review highlighted the need for greater involvement of the affected public at an earlier stage in the assessment process, especially for major projects. The EPA therefore proposes to:

- . require that Proposal Applications for major projects be public documents;
- . consult groups representing the affected/interested public during the preparation of guidelines for ERMPs; and
- . produce, on a trial basis, a regular information sheet containing these guidelines, details of referrals (as contained in Proposal Applications) a map showing the location of proposals and details of public review periods.

The EPA proposes to develop on a trial basis prescriptive guidelines for situations where there are numbers of like proposals with a small number of environmental impacts of low magnitude.

This would enable delegation of the assessment of these proposals to other agencies if appropriate. However, the EPA would need to assess on an on-going basis the cumulative effects of such proposals.

With regard to the proposed centralised database the EPA has set up a working group to investigate the availability of data for the environmental assessment process and the possible role of the EPA in addressing problem areas.

The EPA will require proponents preparing ERMP's to publish stand-alone summary documents for wider public distribution.

The EPA will publish general guidelines on environmental significance to assist those seeking to decide whether proposals should be referred to the EPA.

Finally the EPA will in the near future publish a manual of environmental impact assessment procedures incorporating these changes.

INTRODUCTION

The Environmental Protection Authority of Western Australia has now been operating under the Environmental Protection Act 1986 (Proclaimed 20 February 1987) for more than two years.

The Act specifies many things in great detail, but with respect to the conduct of environmental impact assessment much is left to the Authority's discretion.

With the introduction of the Act the Authority adopted procedures which have now been in effect for two years with only minor changes. The EPA considered it timely to review these procedures.

At the Authority's request Dr John Bailey and Ms Moira Finucane of Murdoch University carried out a review of current environmental impact procedures, reporting to the Authority in January 1989.

The review examined practices in Australia and internationally. Also five workshops were conducted with participants in the environmental impact assessment process to identify their views on the process and the need for change.

The report of the review contained a number of recommendations for change. These recommendations are reprinted in Appendix 1.

The report was released to the public for a ten week period. In response 25 submissions were received from Government Departments, proponent companies, environmental consultants and environmental interest groups. (These submissions are summarised in Appendix 2).

The EPA has considered the report and the submissions and decided on a number of changes to its procedures. The changes and the reasons for them are outlined below.

1. THE MANY MEANINGS OF "NOTICE OF INTENT"

Originally a Notice of Intent (NOI) was just that; a notification from a proponent of the intent to implement a proposal. It always incorporated some description of the proposal, and this was usually used by the EPA to set a level of assessment.

With the higher levels of assessment (PER and ERMP) some further documentation was required as a basis for environmental impact assessment.

However, for formal assessment not involving any period of public review, the Notice of Intent description document was frequently used by the EPA as a basis for assessment. As a result, by common usage, this level of formal assessment became known as "Notice of Intent".

At the same time a need was identified by the EPA for greater flexibility in seeking public input on some proposals by directly targetting the affected public and others whose interest in the proposal was known, rather than simply publishing the document widely for an extended time.

This level of assessment, with targetted public input and a brief, flexible review period became known as "Managed NOI".

The EPA believes these two levels are part of a continuum with an increasing level of consultation. It sees no need to split this continuum. Also, the terminology is confusing.

The EPA has decided on names for all levels of formal assessment which are appropriate to both the level of assessment and the proponent's document, and in which the increasing level of public involvement is indicated.

2. REFERRAL DOCUMENTS

There are five ways in which a proposal can come to the EPA's attention. It may be referred to the Authority by the proponent, a decision-making authority or a third party, the Minister may ask the Authority to assess it or the EPA itself may call it in for assessment.

In all cases, once the EPA has received sufficient basic information about the proposal it decides firstly whether the proposal requires formal assessment and secondly what the level of formal assessment will be.

In the past this information has often been contained in a letter or in the document called Notice of Intent.

While the Authority will continue to receive such referral information in letters, an optional standard form is being introduced to assist those unsure of the details required by the Authority. This form is shown in Appendix 3.

This form may have attachments and, where these were substantial, the resultant document may be equivalent to the old Notice of Intent.

In all cases, this communication, in whatever form, is to be called a Proposal Application.

The Proposal Application will be used to set the level of assessment, and may be an adequate document for the assessment of proposals with minor environmental impacts, subject in both cases to the EPA seeking additional information if necessary.

The term Notice of Intent will no longer be used.

The EPA considers that the affected public need to be informed of the nature of proposed developments early in the assessment process. To assist in this Proposal Applications will be publicly available, and those for major proposals will be published.

To summarise, the terminology now applicable to the referral process is as follows:-

PROPOSAL APPLICATION

A letter or one-page form giving minimal details of a proposal to allow the level of assessment to be set. This information would be publicly available.

The form may be supplemented by attachments or a document giving more detailed information about the proposal. This document would be publicly available, and for major proposals some form of dissemination to the affected public would be required. For proposals with minor environmental impacts this documentation may be adequate for the EPA's assessment.

3. NEW NAMES FOR OLD LEVELS OF ASSESSMENT

The EPA currently uses three levels of assessment for proposals proceeding to full formal assessment.

Some proposals the EPA decides not to assess (because of their minor environmental impact). In such instances the Act allows that the Authority may, nevertheless review the proposal informally and provide advice to the proponent.

In the preparation of this advice, although there is no formal public review period, the EPA takes into account issues raised by members of the public.

The EPA's advice is publicly available in the EPA Reading Room during normal office hours, subject to the commercial confidentiality provisions of the Environmental Protection Act

This level of informal review is to be appropriately called *Informal Review with Public Advice*.

The names currently in use for the three levels of formal assessment have tended to refer to the required document rather than the level of assessment.

The EPA considers that in all cases the inclusion of the term Environmental Review in the new names is appropriate for both the level of assessment and the document, and that the names of levels of assessment should consistently reflect this.

The first formal level of assessment involves consultation with relevant Government Departments and appropriate, targeted public input.

In the past this level of assessment has been called "Notice of Intent", and sometimes "Managed Notice of Intent" to indicate more formal public consultation. The EPA has decided to call this level of assessment *Consultative Environmental Review*.

This level of assessment will be used for proposals with environmental impacts which are relatively easily managed and likely to be of interest only to the local public and/or special interest groups.

It is to be expected that the Proposal Application document will continue to be the basis for assessment at this level, though the EPA may require it to be supplemented with additional information if necessary before proceeding to the consultation phase.

There is no fixed period for the public consultation at present under this level of assessment, and the EPA proposes to retain this flexibility, however a period of four weeks would be normal.

The second level of formal assessment involves the preparation of a document which is made available to the public at large for an 8 week review period. In the past it has been called "Public Environmental Report".

For consistency, the EPA will now call this level *Public Environmental Review*. This name is equally applicable to the review document.

This level of assessment will continue to be used for proposals with significant environmental impacts in which the wider public is likely to have an interest.

The third and highest level of assessment involves a 10 week public review period and has been called *Environmental Review and Management Programme*. Since this name is accurate and consistent, the EPA will retain it.

This level of assessment will continue to be used for proposals with major environmental impacts in which the wider public is known to have an interest. In summary, there will continue to be the provision of informal advice and three levels of formal assessment under Part IV of the Environmental Protection Act:-

INFORMAL REVIEW WITH PUBLIC ADVICE

Those proposals not formally assessed may be reviewed at Divisional level, with the provision of advice to the proponent but no formal report or condition setting. The review may involve consultation with other Government agencies, and the EPA's advice is publicly available.

**CONSULTATIVE ENVIRONMENTAL
REVIEW (CER)**

Formal environmental assessment involving consultation with other Government agencies and groups and members of the public directly interested or affected. The period for public consultation will usually be 4 weeks.

**PUBLIC ENVIRONMENTAL REVIEW
(PER)**

Formal environmental assessment with full public review of 8 weeks.

**ENVIRONMENTAL REVIEW AND
MANAGEMENT PROGRAMME
(ERMP)**

Formal environmental assessment with full public review of 10 weeks. If this assessment requires the preparation of a separate management plan, that plan and the EPA's assessment of it are to be made public.

4. MORE, EARLIER PUBLIC INVOLVEMENT

One need highlighted in the review of procedures was the need for the affected public to be more informed about proposals earlier in the environmental assessment process.

This need is noted in the State Conservation Strategy which recommends:-

"Develop mechanisms by which the community can be directly involved from the initial planning of major developments."

As outlined in 2 above, the EPA has decided that the information from formal Proposal Applications will be publicly available, and those for proposals assessed at the level of ERMP will be published.

This will help in informing the affected public, but to involve them in the planning and approval processes requires more.

To increase the level of public involvement and awareness in early stages of the environmental impact assessment process the Authority proposes:-

- . increased use of public meetings to inform the public of specific proposals and the opportunities for public input to the assessment process; and
- . increased involvement of the public in the drafting of guidelines for environmental impact assessment documents (primarily ERMPs).

This consultation over the preparation of guidelines is commonly called scoping. The EPA acknowledges the value of scoping, but considers the full formalised process recommended in the Bailey/Finucane report would be excessive for some proposals, and may add unduly to the duration of the assessment process.

The EPA has recently adopted the practice with major proposals of including with these guidelines an outline of its assessment strategy for the proposal. This practice will continue.

One initiative which the EPA has considered and which the review endorsed is the publication of a regular information sheet.

While the EPA is severely constrained in allocating staff to this initiative on an on-going basis, it considers the matter sufficiently important to implement it on a trial basis with the aim of establishing procedures which will enable its continued production.

This information sheet would contain:-

- . details of new referrals, as contained in the Proposal Application forms, and a map showing the location of proposals;
- . information on guidelines under preparation;
- . guidelines for environmental impact assessment documents;
- . details of public review periods for environmental impact assessment documents;
- . details of recently released assessment reports; and
- . details of proposals for which the Minister has issued a statement and conditions for the proposal to proceed.

Further, the EPA will require proponents preparing an ERMP to also prepare a brief, simple stand-alone summary of the ERMP for wider distribution to the affected public free of charge. This summary should contain a tabulation of the identified environmental impacts and the proposals for managing them.

While these decisions go some way to satisfying the intent of the State Conservation Strategy recommendation with respect to the environmental assessment process, more could be done in other areas.

For example, the Authority is sometimes asked in submissions to address issues which, while relevant to the environment in the wider sense, are dealt with in the planning process under existing government arrangements.

This situation may be alleviated to some extent by the recent establishment of a Social Impact Assessment Unit. The EPA believes such a Unit can significantly reduce and resolve conflicts of interests in relation to major developments in Western Australia.

To the extent that documentation is required for that Unit's assessment, the EPA believes that this documentation should be amalgamated with that required by the EPA in the interests of efficiency and so that the two assessments may proceed in parallel as far as possible.

5. OTHER BAILEY/FINUCANE RECOMMENDATIONS

The above discussion covers matters raised in recommendations 2, 3, 7, 9, 10 and 13, and the additional suggestions numbered 2 and 4 from the Bailey/Finucane report (see Appendix 2). The EPA has also considered the other recommendations and suggestions with the following results.

RECOMMENDATION 1

In its first recommendation the report turned its attention to proposals which are assessed by the Authority, perhaps rejected, and then subsequently amended and reassessed. For these the report suggested:

It is recommended that in the reassessment of controversial proposals public input be sought from authors of submissions to the original proposal.

The fact that a proposal is controversial is not in itself sufficient justification for referring its reassessment to a wide public. It is usually a particular aspect of a proposal which is subject to controversy. If this aspect is unaffected by the amendment to the proposal, there is no need to refer the amended proposal to those for whom this was their sole concern.

Nevertheless, the EPA supports the idea behind the recommendation and would expect consultation with those affected.

EPA POSITION

Proposals originally assessed at PER or ERMP will be reassessed with reference to those affected by the changed proposal (including those who made submissions if appropriate). The reassessment of such proposals should not be at a level lower than CER.

RECOMMENDATION 4

It is recommended that staged assessment be employed whenever appropriate and especially in situations where there is a range of alternatives requiring assessment. The second stage should be in the form of an environmental management programme made available for comment to authors of submissions to stage 1, or as a stage 2 ERMP.

The EPA agrees with the idea of staged assessment, and has employed it on a number of occasions. However, there is a need to clarify the status of the second stage of the assessment. The EPA believes it is important that this be a full formal assessment at the level of CER, PER or ERMP as appropriate. This implies public review of the stage 2 document (usually called an Environmental Management Programme), and the scope for the formal setting of conditions additional to those set as a result of the stage 1 assessment.

EPA POSITION

Staged assessment will be employed whenever appropriate and especially in situations where there is a range of alternatives requiring assessment. The second stage will normally be subject to full formal assessment with public review at an appropriate level.

RECOMMENDATIONS 5 & 6

It is recommended that Class EIA be introduced for proposals of prescribed classes with a small number of associated environmental impacts of a low magnitude; assessment should involve the production of a Class ERMP and subsequent binding prescriptions.

It is recommended that Class EIA prescriptions be implemented as an Environmental Protection Policy under Part III of the Environmental Protection Act 1986, and therefore be reviewed every 7 years, or sooner if considered necessary by the EPA.

The principle behind Class EIA is that there are some classes of proposals which are sufficiently alike and of sufficiently minor environmental impact that they can be assessed by the EPA as a class, with individual assessments being subsequently delegated to other agencies following the prescriptions laid down by the EPA.

Recommendation 6 suggests that these prescriptions be in an Environmental Protection Policy. The Authority believes that in most instances the development of prescriptive guidelines or regulations would be adequate, without enshrining them in an EPP.

EPA POSITION

Class EIA will be introduced on a trial basis, but the resultant prescriptions will be in the form of guidelines or regulations, not Environmental Protection Policies, in the first instance.

RECOMMENDATION 8

It is recommended that a central computerised clearing house or database be established by the EPA, and that environmental studies by Government agencies, proponents, consultants and other bodies such as tertiary institutions be included, and made publicly available.

EPA POSITION

The EPA has set up an internal working group to investigate the demand for such a database and the ways in which it might be implemented.

RECOMMENDATIONS 11 & 12

It is recommended that the bases for impact predictions should be made explicit within the EIA document.

It is further recommended that the implications which the proposal has with respect to the implementation of environmental policies and guidelines such as the State Conservation Strategy should be included in the stand-alone summary and EIA document.

The EPA agrees with the first of these recommendations and will be requiring proponents to give attention to this in their EIA documents.

With regard to the second recommendation, the EPA considers the inclusion of this information in EIA documents to be desirable but not essential. Proponents will be encouraged but not compelled to include it.

The EPA has for some time been concerned about the quality of documentation being submitted for assessment. Proponents and consultants should be aware of the EPA's commitment to rectifying this. By submitting inadequate documents proponents are causing delays in the assessment process.

EPA POSITION

Documents which are inadequate for assessment, and for public release where appropriate, will not be accepted. An adequate document should indicate, where appropriate, the bases for impact predictions. The identification of the relation of proposals to environmental policies and guidelines will also be encouraged.

RECOMMENDATION 14

It is recommended that the Authority provide increased opportunities for meetings with such persons as the proponent and authors of major and significant submissions during proposal assessment.

EPA POSITION

The EPA will provide increased opportunities for meetings with such persons as the proponent and authors of major and significant submissions during proposal assessment.

RECOMMENDATION 15

It is recommended that in the setting and implementation of environmental conditions the following should occur:

- . that the Minister for the Environment should consider consulting proponents and, where applicable, consultants before the setting of environmental conditions;
- . that environmental conditions be set in such a way as to enable their subsequent auditing; and
- . that all environmental conditions and monitoring reports be made publicly available.

This recommendation is in several parts. The first part relates to the Minister's consultation with regard to the setting of environmental conditions on proposals.

The EPA advises the Minister on the environmental acceptability of proposals and, if acceptable, on the conditions which might appropriately be set.

It is up to the Minister to decide who will be consulted during the condition-setting process.

However, as the EPA's recommendations to the Minister are appealable and the proponent has a further right of appeal against the conditions set, it would seem that the need for consultation is reduced.

The EPA agrees with the second part of the recommendation; conditions should be auditable.

Again it is the Minister who sets conditions, but the EPA endeavours to frame recommendations which can readily be converted by the Minister into auditable conditions.

The EPA also agrees with the third part of the recommendation. All conditions are already publicly available in the EPA's reading room. Monitoring reports can also be made available, though not so readily, as they are held on departmental files.

EPA POSITION

The suggestions with regard to consultation on the setting of conditions and the auditability of conditions have been conveyed to the Minister.

Conditions set by the Minister will continue to be available to the public in the EPA's reading room, and monitoring reports will also be available on request.

RECOMMENDATION 16

It is recommended that a group within the EPA or alternatively within an appropriate tertiary institution be established to address aspects of post-assessment evaluation including:

- . the accuracy of predictions; and
- . the effectiveness of environmental conditions, monitoring and management programmes.

The funding for such research should be the conjoint responsibility of both the public and private sectors. The results of post-assessment evaluation should be stored in the recommended data-base.

The EPA agrees that post-assessment evaluation is most important to the on-going effectiveness of environmental protection.

The Authority considers the importance of feedback information flows makes it preferable that this evaluation be carried out within the Authority, though possibly with the use of contract consultants.

The Authority has already established a system for monitoring the implementation of Ministerial conditions, and consultants are currently investigating the post-assessment evaluation of two classes of proposals, marinas and mineral sands mines. These developments will be expanded.

EPA POSITION

The EPA will continue the development of a system of post-assessment evaluation, using consultants where appropriate.

The Bailey/Finucane report made several suggestion (see Appendix 2) which the EPA also considered.

SUGGESTION 1

Consideration should be given to the allocation of funds specifically towards effective community participation in the EIA process.

This issue is somewhat beyond the EPA's charter. Nevertheless, the EPA considers that should more funds become available for public environmental groups the EIA process would probably best be served by allocations to small groups directly affected by specific proposals.

EPA POSITION

This suggestion has been conveyed to the Minister.

SUGGESTION 3

Both proponents and consultants have requested that they be allowed access to the original public written submissions rather than an EPA summary. The EPA should consider forwarding public submissions to the proponent with the authors' consent.

The EPA does not agree with this suggestion. The EPA currently provides the proponent with a summary of issues raised in submissions for two reasons.

Firstly submissions are frequently repetitive, and the EPA can usefully amalgamate issues, adding its own input.

Secondly the EPA is keen to encourage submissions from the public, some of whom may well not wish the proponent to know of their opposition to the proposal. The present arrangement preserves the anonymity of those making submissions.

EPA POSITION

The EPA will continue to preserve the anonymity of submissions except where authors give specific authorisation to the contrary.

6. SUGGESTIONS FROM SUBMISSIONS

Several submissions made additional recommendations and suggestions which are listed here:-

SUGGESTION S1

During EIA information should be provided to the public on similar plants elsewhere in the world and any problems which they have experienced. Independent expert assessment of the proposals should also be commissioned and published with the EIA.

During the assessment of industrial proposals the EPA investigates the experience of plants elsewhere in the world, and endeavours where possible to have assessment officers visit relevant plants.

It is also appropriate for such comparative information to be included in the proponent's documentation.

Nevertheless, the EPA considers the evidence of problems in other places as both a warning and a learning opportunity.

With regard to the second part of the suggestion, the EPA considers that it has been invested by Parliament with the task of independently assessing proposals, and resourced to do so expertly.

Where the Authority lacks the relevant expertise it frequently employs independent expert private consultants to assist it in its work.

EPA POSITION

The EPA will continue to encourage proponents to relate proposals to relevant existing developments overseas, and to consider these in its own assessment of proposals.

The EPA will continue to use independent expert private consultants where appropriate.

SUGGESTION S2

The EPA should function as a totally independent agency, separate from all Government interference and direction.

EPA POSITION

The Environmental Protection Act ensures that in carrying out its assessment function the EPA is independent of Government influence.

SUGGESTION S3

When major integrated developments such as the Cooljarloo Joint Venture are proposed, the proponents should be required to submit the entire project for assessment at one time rather than in piecemeal fashion.

The EPA agrees that where proposals are inextricably linked and cannot proceed separately, their assessment should be similarly linked (e.g. the assessment of the proposed power station and coal mine at Mt Lesueur).

There are, however, proposals which, though they fit together well, and though they have the same proponent, are quite able to proceed independently of each other. In these instances the EPA is prepared to consider separate assessment of the proposals. This is often appropriate because the planning and documentation for the component proposals is rarely at the same stage of development.

EPA POSITION

In assessing proposals the EPA will give consideration to the desirability of assessing all elements of an integrated proposal jointly.

SUGGESTION S4

It would be helpful if the EPA included details of the replies received from proponents to specific points raised in submissions.

EPA POSITION

The EPA will continue the current practice of including the proponent's response to issues raised in submissions as an appendix to the EPA's assessment report.

SUGGESTION S5

It would be even more pleasing if the EPA took comments in submissions more seriously in the EIA process in future!

The EPA has always taken comments made in submissions seriously, however it has not always made its consideration of issues raised in submissions sufficiently obvious. This report is an exception, and there are others.

In the same way that the proponent is required to comment on all issues raised, it behooves the EPA to acknowledge relevant environmental matters raised by the public and to give its reasons for agreeing or disagreeing with the stance taken.

This should be done in such a way that those making submissions can recognise the points they raised and relate the EPA's considerations to them. The EPA considers this an important part of its public interaction.

Nevertheless, the EPA is aware that it can never please everybody in its reports, and that those who disagree with the EPA may continue to feel that their views have not been taken seriously.

EPA POSITION

In its reports the EPA will discuss significant environmental issues raised in submissions so as to enable those making submissions to recognise the points they raised and relate the EPA's considerations to them.

SUGGESTION S6

The \$10 charge for appeals should be waived. It puts members of the public living outside the Metropolitan Area at a disadvantage. Because of the limited time frame, appeals are often faxed, but one cannot fax the \$10, and without it accompanying the appeal, it is invalid.

The State Government has a network of offices throughout the State at which payments of all kinds can be made. They commonly include Clerks of Courts and Police Stations.

An appellant faced with a close timeline can pay the \$10 appeal fee at one of these offices, explaining that it is "a \$10 fee for an appeal to the Minister for Environment". A receipt will be given. The appellant can then fax a copy of the appeal and the receipt to the Minister.

Should there be occasions when payment cannot be made in this way, the Minister has the discretion to waive the appeal fee. In such an instance the appellant should contact the Minister's office explaining the situation and seeking a waiver of the fee.

SUGGESTION S7

The Minister should give more detailed explanation of his judgements on appeals, especially when dismissing them.

The Minister determines his responses to appellants; this suggestion has been referred to the Minister. However, the number of appeals dealt with may preclude much greater detail in replies.

EPA POSITION

This suggestion has been referred to the Minister.

7. FOR THE FUTURE

SUGGESTION S8

The EPA should adopt the provision of the Commonwealth legislation which requires that assessment be completed within a specific time frame, or that reasons for an extension be given.

The EPA is aware of the need to assess proposals expeditiously, and endeavours to do so as a matter of course.

The Environmental Protection Act requires the Authority to report no later than 6 weeks after completing its assessment or at any time, at the Minister's direction.

EPA POSITION

The EPA believes the provisions in the Environmental Protection Act are reasonable, and sees no reason to seek to change them at this stage.

Guidelines of Environmental Significance

Decision-making authorities are required to refer to the EPA proposals which may have an environmentally significant impact. However, the Act does not define "environmental Significance".

The EPA will develop general guidelines of environmental significance to assist proponents and decision-making authorities to determine whether proposals should be referred to the EPA.

Manual of EIA Procedures

The EPA will in the near future publish a manual of environmental impact assessment procedures, incorporating the changes outlined in this report.

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APPENDIX 1

RECOMMENDATIONS FROM THE BAILEY/FINUCANE REPORT

RECOMMENDATION 1

It is recommended that in the reassessment of controversial proposals public input be sought from authors of submissions to the original proposal.

RECOMMENDATION 2

It is recommended that the following terminology be adopted in place of Notice of Intent:

- . **Starting Document**- for the initial referral document;
- . **Internal Environmental Assessment** - in place of the NOI as a level of assessment; and
- . **Special Environmental Assessment** - in place of Managed NOIs.

RECOMMENDATION 3

It is recommended that the two current levels of fully public assessment be replaced by one, and that the ERMP be retained to describe fully public assessment. Within the ERMP level of assessment the scope, depth and duration of the review is expected to differ between proposals. The requirements for study breadth and depth should be detailed in the EIA study guidelines.

RECOMMENDATION 4

It is recommended that staged assessment be employed whenever appropriate and especially in situations where there is a range of alternatives requiring assessment. The second stage should be in the form of an environmental management programme made available for comment to authors of submissions to stage 1, or as a stage 2 ERMP.

RECOMMENDATION 5

It is recommended that Class EIA be introduced for proposals of prescribed classes with a small number of associated environmental impacts of a low magnitude; assessment should involve the production of a Class ERMP and subsequent binding prescriptions.

RECOMMENDATION 6

It is recommended that Class EIA prescriptions be implemented as an Environmental Protection Policy under Part III of the Environmental Protection Act 1986, and therefore be reviewed every 7 years, or sooner if considered necessary by the EPA.

RECOMMENDATION 7

It is recommended that scoping be implemented, proportional to the level of assessment, for use in the preparation of EIA study guidelines. The EPA should be responsible for:

- . the initiation of the scoping process;
- . choosing the participants to be involved in the scoping process;
- . convening the meeting of selected participants;
- . ensuring that adequate background information is provided to participants involved in scoping; and
- . setting the guidelines after receiving input from the scoping process.

RECOMMENDATION 8

It is recommended that a central computerised clearing house or data-base be established by the EPA, and that environmental studies by Government agencies, proponents, consultants and other bodies such as tertiary institutions be included, and made publicly available.

RECOMMENDATION 9

It is recommended that a stand-alone summary should be prepared by the proponent and should include information on:

- . the proposal;
- . the receiving environment;
- . the predicted impacts; and
- . management commitments.

This summary should be prepared to accompany all public assessments and be widely available, free of charge, from the EPA and other outlets such as public libraries.

RECOMMENDATION 10

It is recommended that the stand-alone summary should contain a tabulation presenting information on predicted impacts (including indirect as well as direct impacts); and the corresponding mitigation measures proposed. It would be useful if the table were cross-referenced to the complete report.

RECOMMENDATION 11

It is recommended that the bases for impact predictions should be made explicit within the EIA document.

RECOMMENDATION 12

It is further recommended that the implications which the proposal has with respect to the implementation of environmental policies and guidelines such as the State Conservation Strategy should be included in the stand-alone summary and EIA document.

RECOMMENDATION 13

It is recommended that the EPA produce a publicly available EIA bulletin. The bulletin should provide information on the following aspects of EIA:

- . scoping exercises in progress;

- . proposals referred (including a location map) and their level of assessment;
- . EIA study guidelines; and
- . public review periods.

RECOMMENDATION 14

It is recommended that the Authority provide increased opportunities for meetings with such persons as the proponent and authors of major and significant submissions during proposal assessment.

RECOMMENDATION 15

It is recommended that in the setting and implementation of environmental conditions the following should occur:

- . that the Minister for the Environment should consider consulting proponents and, where applicable, consultants before the setting of environmental conditions;
- . that environmental conditions be set in such a way as to enable their subsequent auditing; and
- . that all environmental conditions and monitoring reports be made publicly available.

RECOMMENDATION 16

It is recommended that a group within the EPA or alternatively within an appropriate tertiary institution be established to address aspects of post-assessment evaluation including:

- . the accuracy of predictions; and
- . the effectiveness of environmental conditions, monitoring and management programmes.

The funding for such research should be the conjoint responsibility of both the public and private sectors. The results of post-assessment evaluation should be stored in the recommended data-base.

APPENDIX 2

SUMMARY OF SUBMISSIONS RECEIVED ON THE BAILEY/FINUCANE REVIEW REPORT

INTRODUCTION

The report prepared for the EPA by John Bailey and Moira Finucane, was released for public comment for a 10 week period. Several organisations requested extra time and this was granted.

In all 25 submissions were received from:

Government:

Main Roads Department
Department of Resources Development
Department of Agriculture
Department of Mines
Water Authority of Western Australia
Department of Regional Development and the North-West
State Energy Commission of WA
Department of Local Government
Town of Kwinana

Proponents:

Worsley Alumina Pty Ltd
Westralian Sands Ltd
WAFIC Inc
Chamber of Mines of WA Inc
West Australian Petroleum Pty Ltd
Australian Petroleum Exploration Association Ltd

Consultants:

Environment Institute of Australia (WA Regional Branch)
Australian Groundwater Consultants Pty Ltd
Dames & Moore Pty Ltd
Ian Pound & Associates Pty Ltd
Dinara Pty Ltd (Harry Butler)

Environmental Groups:

Goldfields Against Serious Pollution (Kalgoorlie Branch)
Goldfields Against Serious Pollution (Kambalda Branch)
Conservation Council of WA Inc
Wetlands Conservation Society
Statewide Network of Action Groups

The submissions tended to address the report's recommendations specifically, though some also made general comments and/or additional recommendations.

This summary follows that structure, looking first at the General Comments, then the report's recommendations, and finally at any additional recommendations.

GENERAL COMMENTS

Many general comments were made about the overall thrust of the report. They are summarised here in note form:

- . concern that the thrust is anti-industry and would damage industry's relationship with the wider community;
- . broad approval for the report;
- . encourage closer involvement of local government;
- . concern that recommendations increase complexity of processes and would increase time lines;
- . some "environmental considerations" raised during assessments are perceived and not real;
- . the review should not aim to eliminate conflict - a healthy expression of conflict is part of the EIA process;
- . greater involvement of country people through Dept of Regional Development;
- . projects impinging on fishing areas should be referred to WAFIC;
- . the thrust of the report towards increased public involvement is not warranted;
- . the involvement of Dr Bailey has prevented an independent review; and
- . there is disappointingly little discussion of EIA practice elsewhere in Australia and overseas.

RECOMMENDATION 1

It is recommended that in the reassessment of controversial proposals public input be sought from authors of submissions to the original proposal.

Agree	7
Agree with qualification	5
Disagree	3

There was general agreement with this idea, though one submission questioned the use of the word "controversial", and several objected to the extra cost and delay which it might lead to. One expressed concern that the EPA retain the flexibility to do what it though fit in such circumstances.

RECOMMENDATION 2

It is recommended that the following terminology be adopted in place of Notice of Intent:

- . *Starting Document- for the initial referral document:*
- . *Internal Environmental Assessment - in place of the NOI as a level of assessment; and*
- . *Special Environmental Assessment - in place of Managed NOIs.*

Agree	8
Agree partially	7
Disagree	4

There was general agreement that a clarification of the present level of assessment nomenclature was needed; however there was much less support for the proposed new terminology.

Some expressed concern that any assessment should be internal. Others pointed out that the issues was not the name NOI but the dual purpose of the document that led to confusion.

One suggested the use of the term "referral document", and others suggested NOI be retained to refer to a starting document adequate for internal assessment, prepared without the provision of guidelines, while PER replaced managed NOI.

RECOMMENDATION 3

It is recommended that the two current levels of fully public assessment be replaced by one, and that the ERMP be retained to describe fully public assessment. Within the ERMP level of assessment the scope, depth and duration of the review is expected to differ between proposals. The requirements for study breadth and depth should be detailed in the EIA study guidelines.

Agree	10
Agree partially	3
Disagree	2

Support for this recommendation was almost unanimous. Those against the idea, and some of those supporting it, were concerned that there should be a clear application of a lesser level of assessment for smaller, less complex proposals.

RECOMMENDATION 4

It is recommended that staged assessment be employed whenever appropriate and especially in situations where there is a range of alternatives requiring assessment. "the second stage should be in the form of an environmental management programme made available for comment to authors of submissions to stage 1, or as a stage 2 ERMP.

Agree	8
Agree partially	5
Disagree	5

Although most submissions supported the use of staged assessment many did so with reservations. Some were concerned at possible doubling of the assessment time, others at premature release of information. Several highlighted the problem of the significance of Stage 1 approval when there was a Stage 2 assessment still to come.

RECOMMENDATION 5

It is recommended that Class EIA be introduced for proposals of prescribed classes with a small number of associated environmental impacts of a low magnitude; assessment should involve the production of a Class ERMP and subsequent binding prescriptions.

Agree	10
Agree partially	5
Disagree	3

There was substantial support for the idea of class EIA though several felt that the procedures spelt out in the report were too complex and rigid. Another objection related to the reduction in the opportunity for public input.

Two of those against the idea pointed out that a similar objective could be achieved by the development of "class guidelines" for classes of development.

[A post-implementation assessment research project started this year by Dr Valerie Hobbs of Murdoch University has the production of such guidelines as one of its aims. A similar function is also being performed by "codes of practice" for different types of small industries currently being developed by the EPA.]

RECOMMENDATION 6

It is recommended that Class EIA prescriptions be implemented as an Environmental Protection Policy under Part III of the Environmental Protection Act 1986, and therefore be reviews every 7 years, or sooner if considered necessary by the EPA.

Agree	8
Agree partially	2
Disagree	4

In general comments on this recommendation were linked to those for recommendation 5. One opponent of class EIA suggested that developing requirements for multiple activities in a single environment was more logical than setting standards for a single activity in different environments.

RECOMMENDATION 7

It is recommended that scoping be implemented, proportional to the level of assessment, for use in the preparation of EIA study guidelines. The EPA should be responsible for:

- . the initiation of the scoping process;*
- . choosing the participants to be involved in the scoping process;*
- . convening the meeting of selected participants;*
- . ensuring that adequate background information is provided to participants involved in scoping; and*
- . setting the guidelines after receiving input from the scoping process.*

Agree	9
Agree partially	5
Disagree	6

This recommendation received support, especially from environmental groups and Government Departments.

Consultants were divided, seeing the value of the exercise but also the problems of an eight-week extension of the assessment process.

Proponents were unanimously opposed to the idea because of the added costs and delays and the politicisation which could result.

RECOMMENDATION 8

It is recommended that a central computerised clearing house or data-base be established by the EPA, and that environmental studies by Government agencies, proponents, consultants and other bodies such as tertiary institutions be included, and made publicly available.

Agree	10
Agree partially	5
Disagree	4

There was strong support for this concept, and some of those who had reservations also acknowledged its attractiveness.

Problems with it included the copyright and confidentiality of the data prepared for a particular assessment and the investment in its collection, the lack of a clear definition of what the data-base should contain, and the existing data sharing facilities available through WALIS.

RECOMMENDATION 9

It is recommended that a stand-alone summary should be prepared by the proponent and should include information on:

- . the proposal;*
- . the receiving environment;*
- . the predicted impacts; and*
- . management commitments.*

This summary should be prepared to accompany all public assessments and be widely available, free of charge, from the EPA and other outlets such as public libraries.

Agree	10
Agree partially	5
Disagree	1

There was almost unanimous agreement with this proposal, though some reservations were expressed.

Concerns raised included who would pay for it, and what information it should contain. One consultant felt that the required information would not be available until the

assessment process was complete. One Government Department considered the provision of the summary document should be optional, while another asked for copies to be available through its regional offices.

RECOMMENDATION 10

It is recommended that the stand -alone summary should contain a tabulation presenting information on predicted impacts (including indirect as well as direct impacts); and the corresponding mitigation measures proposed. It would be useful if the table were cross-referenced to the complete report.

Agree	6
Agree partially	2
Disagree	2

Again there was substantial support for this recommendation. Concerns additional to those raised in connection with recommendation 9 included the requirement that benefits of the proposal should also be tabulated, and a query that the EMP would not normally be "sufficiently simplistic and quantised" to be tabulated.

RECOMMENDATION 11

It is recommended that the bases for impact predictions should be made explicit within the EIA document.

Agree	9
Agree partially	3
Disagree	0

There was unanimous approval of this recommendation. Two commented that they believed impact predictions were already made explicit; two noted that in some cases it was difficult to quantify the basis for an informed opinion, while one suggested that it likewise behooved the EPA to define explicitly its criteria for determining whether impacts are acceptable or unacceptable and significant or insignificant.

RECOMMENDATION 12

It is further recommended that the implications which the proposal has with respect to the implementation of environmental policies and guidelines such as the State Conservation Strategy should be included in the stand-alone summary and EIA document.

Agree	6
Agree partially	0
Disagree	6

Although numbers were evenly divided on this issue, the substance of the issues raised against the recommendation tends to carry more weight than the one word comment "support" or "agree".

There were doubts that it was properly the role of the proponent to interpret policy in relation to its proposal, especially where policies were ill-defined or in conflict.

Others claimed the responsibility for this assessment lay with the EPA. Finally, two claimed that the inclusion of this in the stand-alone summary was impractical and of limited value.

RECOMMENDATION 13

It is recommended that the EPA produce a publicly available EIA bulletin. The bulletin should provide information on the following aspects of EIA:

- . *scoping exercises in progress;*
- . *proposals referred (including a location map) and their level of assessment;*
- . *EIA study guidelines; and*
- . *public review periods.*

Agree	11
Agree partially	1
Disagree	3

There was strong support for this recommendation, and one submission urged the EPA to implement it immediately. There were various suggestion for its content and distribution.

Those against the idea felt that existing facilities for public information were adequate, and that such a publication would increase "problems of public involvement".

RECOMMENDATION 14

It is recommended that the Authority provide increased opportunities for meetings with such persons as the proponent and authors of major and significant submissions during proposal assessment.

Agree	10
Agree partially	2
Disagree	2

Again, this recommendation was strongly supported, especially by consultants and proponents. One proponent sought the opportunity through such interaction, to "assist the EPA in deciding what is a major submission and what is not"!

Objections came from one consultant who was concerned with timelines, and one environmental group which felt that all interaction between the EPA and proponents should be within the context of Public Hearings.

RECOMMENDATION 15

It is recommended that in the setting and implementation of environmental conditions the following should occur:]

- . that the Minister for the Environment should consider consulting proponents and, where applicable, consultants before the setting of environmental conditions;*
- . that environmental conditions be set in such a way as to enable their subsequent auditing; and*
- . that all environmental conditions and monitoring reports be made publicly available.*

Agree	11
Agree partially	6
Disagree	1

This recommendation is in three parts. There were only two objections to the Minister consulting proponents in the setting of conditions, and both were from environmental groups which felt the environmental standards set should be non-negotiable. One put it this way "It is unbelievable that the researchers of this document can seriously recommend such collusion between the EPA, the Minister for the Environment and Project Proponents".

Two submissions which favoured the recommendation suggested the extension of the consultation to include local government and "all affected parties" respectively.

One Government Department suggested that the formal consultation over Ministerial conditions could be delegated to the primary decision-making authority.

There was no disagreement with the need to set conditions which can be audited.

The final part of this recommendation caused most comment. Some feared it might lead to extra costs or time delays to the proponent, while others acknowledged that the Minister's conditions are already made available to the public, through the EPA library.

The issue of making monitoring reports publicly available was controversial.

There was concern over confidentiality of the information and any additional cost which might be imposed on the proponent to make the reports available to the public. The value of providing such technical information to unqualified people without interpretation was also questioned.

Of the six submissions which specifically mentioned this part of the recommendation, only one was in favour of making the reports available to the public.

RECOMMENDATION 16

It is recommended that a group within the EPA or alternatively within an appropriate tertiary institution be established to address aspects of post-assessment evaluation including:

- . the accuracy of predictions; and*
- . the effectiveness of environmental conditions, monitoring and management programmes.*

The funding for such research should be the conjoint responsibility of both the public and private sectors. The results of post-assessment evaluation should be stored in the recommended data-base.

Agree	6
Agree partially	10
Disagree	1

Work done by		Funding by	
EPA	10.5	EPA	5.5
Proponent	2.5	Proponent	1.5
Tert.Inst.	0		

Submissions were almost unanimous that this work should be done - only one said that this was adequately covered by existing EMPs - and there was complete agreement that it should not be done by a tertiary institution.

Most felt it should be done by EPA, though five felt it was the joint responsibility of the EPA and the proponent, and one pointed to the additional resources available to the EPA through consultations with decision-making authorities.

Two submissions from the Goldfields said that this post-assessment evaluation was properly the role of a Regional Environmental Protection Officer (liaising with local interest groups), and another submission commented on the important role that local governments could play in monitoring the effectiveness of conditions.

ADDITIONAL SUGGESTIONS

There were several suggestions in the report which were not given the status of recommendations. Two of these received special mention in submissions:

SUGGESTION 1

Consideration should be given to the allocation of funds specifically towards effective community participation in the EIA process.

Not surprisingly, the Environmental groups were strongly supportive of this suggestion, though there was opposition from other groups. One pointed out the need to specify the mechanism to be implemented so that the allocation of funds would lead to the desired participation. Another questioned the allocation of funds to those with no expertise in the environmental field.

SUGGESTION 2

The EPA should consider increasing the number of alternative mechanisms for public participation in the review process. Such mechanisms could include: public hearings with oral submissions; public meetings with the proponent, the consultant and the EPA present; and meetings between the EPA and key community groups.

While this idea found favour with environmental groups it was questioned by others. One considered that all should be required to provide written submissions, and another considered this move placed too much emphasis on opinion at the expense of fact. In fact the EPA has used all of the suggested mechanisms on different occasions when they were considered to be appropriate.

SUGGESTION 3

Both proponents and consultants have requested that they be allowed access to the original public written submissions rather than an EPA summary. The EPA should consider forwarding public submissions to the proponent with the authors' consent.

Only one comment was made in relation to this suggestion, and that was strongly against the idea. To quote it:-

"Developers and Industry do not appreciate criticism, and have no hesitation in using their power and financial status to manipulate Employment and Promotional prospects, not only their respective industry but those of their associates. A submission writer could give permission for their submission to be viewed, only to find they have compromised future career opportunities."

SUGGESTION 4

Social impact assessment, whilst being an important part of proposal assessment (perhaps undertaken by an appropriate authority) should not be combined with EIA other than:-

- . impacts on people as part of the bio-physical environment (e.g. noise, smell);*
- . impacts of people on the environment as a result of the proposal;*
- . aesthetics; and*
- . risk and hazard analysis.*

Two consultants acknowledged the desirability of separating social and environmental issues, but pointed to the need for the EPA to develop clear guidelines on the nature and extent of social assessment it considers appropriate within EIA, and the need to establish another forum where social impact assessment can be addressed.

RECOMMENDATIONS IN SUBMISSIONS

Several submissions made additional recommendations and suggestions which are listed here:-

SUGGESTION S1

During EIA information should be provided to the public on similar plants elsewhere in the world and any problems which they have experienced. Independent expert assessment of the proposals should also be commissioned and published with the EIA.

SUGGESTION S2

The EPA should function as a totally independent agency, separate from all Government interference and direction.

SUGGESTION S3

When major integrated developments such as the Cooljarloo Joint Venture are proposed, the proponents should be required to submit the entire project for assessment at one time rather than in piecemeal fashion.

SUGGESTION S4

It would be helpful if the EPA included details of the replies received from proponents to specific points raised in submissions.

SUGGESTION S5

It would be even more pleasing if the EPA took comments in submissions more seriously in the EIA process in future!

SUGGESTION S6

The \$10 charge for appeals should be waived. It puts members of the public living outside the Metropolitan Area at a disadvantage. Because of the limited time frame, appeals are often faxed, but one cannot fax the \$10, and without it accompanying the appeal, it is invalid.

SUGGESTION S7

The Minister should give more detailed explanation of his judgements on appeals, especially when dismissing them.

SUGGESTION S8

The EPA should adopt the provision of the Commonwealth legislation which requires that assessment be completed within a specific time frame, or that reasons for an extension be given.

APPENDIX 3

ENVIRONMENTAL PROTECTION AUTHORITY		ASST No.	FILE No.
PROPOSAL APPLICATION		OFFICE USE ONLY	
This is not a legal document. Its purpose is to provide sufficient, relevant information to enable the EPA to set an appropriate level of formal assessment for a proposal referred to the EPA under Section 38 of the Environmental Protection Act 1986			
PROPONENT			
Submitted by _____			
Address for correspondence _____			
Proponent's contact person _____ Position _____ Phone no. _____			
PROPOSAL			
Title of proposal _____			
Description _____			

Include an indication of the scope of the proposal (area, production capacity, duration etc as appropriate).			
LOCATION (Attach a location map)			
Proposal site _____			
Current zoning _____ Distance to nearest residence or urban area _____			
Adjacent land uses _____			
Site description _____			

SERVICES			
Water supply: Quantity required _____			
Source _____			
Transport effects _____			
Other major utilities needed (power, sewerage etc) _____			
WASTES/DISCHARGES Give details of all possible emissions (gaseous, liquid, solid). Include contents of storage ponds or tanks (which may rupture or leak) and stormwater control.			
Nature & composition of emission	Environmental impact	Proposed management/disposal/discharge	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
OTHER ENVIRONMENTAL ISSUES			
Are there significant risks and hazards associated with the proposal? <input type="checkbox"/> If so attach details.			
Describe public awareness of proposal and opposition, if any. _____			
Give brief details of any relevant environmental studies already undertaken _____			

Attach details of any other significant environmental impacts			
Signed _____		Date ____/____/____	