

05 June 2009

Allocation Planning
Department of Water,
PO Box 836
Karratha WA 6714

Via email: allocation.planning@water.wa.gov.au

RE: DRAFT PILBARA WATER IN MINING GUIDELINES

The Chamber of Minerals and Energy of WA (CME) welcomes the opportunity to formally respond to the draft *Pilbara Water In Mining Guidelines*.

Background

The CME is the peak resources sector representative body in Western Australia funded by its member companies who generate an estimated 95 per cent of all mineral and energy production in the State. The sector is diverse and complex covering exploration, processing, downstream value adding and refining of over 40 different types of mineral and energy resources across the State.

The CME formed a Water Issues Group (WIG) in 2000 to share water management knowledge and techniques within the industry and input to CME policy development relating to water and water reform issues. Membership of WIG consists of water specialists who represent many of the Chamber's member companies.

The resources sector recognises the importance of managing water resources in a sustainable way. Water is an essential input in mining, minerals processing and energy generation. Secure access to water resources is a key consideration underpinning billions of dollars of investment in the resources sector in the Pilbara.

Support for the draft *Pilbara Water in Mining Guidelines*

In broad terms the CME supports the draft *Pilbara Water in Mining Guidelines (Guidelines)* and in particular the need to provide a clear and consistent approach to the water related approvals within the remit of the Department of Water. Such a document should assist project proponents by providing a clear and efficient process for the regulation of water resources for mining operations in the Pilbara.

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The three key concerns for CME members with regards to the *Guidelines* are the intended role of the *Guidelines*, the information requirements of the *Guidelines*, and the new policies included within the *Guidelines*. The following provides more detail of these concerns.

Role of the *Guidelines*

Presently there is very little information and guidance on the development of water allocation planning in the Pilbara, despite the commitment in the State Water Plan. The draft Pilbara Regional Water Plan did not provide adequate guidance on this issue; and the CME is concerned with the limited amount of stakeholder engagement and consultation in the development of the regional plan.

The CME has noted that water allocation plans are to become statutory water management plans under the proposed *Water Resources Management Bill*, which the Department of Water has indicated is intended to be introduced into Parliament in 2010. For this reason, CME would seek clarity of the relationship between the *Guidelines* and the application of water allocation planning in the Pilbara.

A key concern for CME members is that the development of the *Guidelines* ahead of the development of water allocation plans could in fact distort any future water allocation planning in the region.

There are concerns among members that the *Guidelines* could assume the status of a de facto regulatory policy over time. Decisions made using these *Guidelines* may be contestable and the status of these *Guidelines* in the Government's water planning hierarchy needs to be identified. CME emphasises that the *Guidelines* must remain a management tool rather than a vehicle for regulation.

Information Requirements

CME member companies are concerned that where the *Guidelines* seek information to a level of detail in excess of current requirements, this information is often disproportionate to the management task.

The information requirements outlined in the *Guidelines* may not always align with mining company's project development processes. These information requirements could have significant cost implications and cause substantial delays in development.

CME recommends the review and evaluation of the *Guidelines*, with the involvement of key stakeholders, to align the information requirements with normal business processes.

A number of components within the *Guidelines* include mine, rail and port operations. This is an example of information being requested beyond what should be required. The basis for the requirements of this information is unclear. CME, therefore, seeks clarification on how the *Guidelines* envisage the relationship between mine developments and rail and port operations.

New Policies

Throughout the *Guidelines* there are a number of instances where components and policy details describe positions that appear to be 'new policy'. CME is concerned that these new policy positions are being presented as accepted policy and we would argue that it is not an appropriate medium for consultation on these issues.

The draft Guidelines propose numerous components that refer to the cumulative impacts of individual mining operations. CME supports the need to address the issue of cumulative impacts; however, there is concern that these draft Guidelines attempt to define both guidelines and policy. Any cumulative impacts policy must be consulted on and finalised prior to inclusion in the Guidelines.

CME members support the Government's role in facilitating the management of cumulative impacts; however, this matter requires greater clarity and definition including a clear process for developing a policy management approach that achieves critical alignment among regulators.

Another example of apparent new policy being included in the Guidelines is the specification of a limit for exploration pump testing. CME seeks clarification for the justification and source of requirement for this inclusion. CME believes that setting a limit for exploration pump testing could effectively introduce the requirement for s5C licences just to test for aquifer parameters. This would increase cost burdens and defeat the purpose of s26D licences.

CME suggests that matters that are effectively 'new policy' should be withheld from the final guidelines until further stakeholder consultation has been conducted and these policy positions agreed upon.

Additional Concerns

There are a number of other issues raised in the Guidelines that CME wishes to highlight as being matters of concern.

The component regarding exploration for water sources indicates that a s26D licence under the *Rights in Water and Irrigation Act 1914* is required for preliminary monitoring bores. The impacts of this proposal would be significant and would certainly effect the capacity of the Department of Water Pilbara Regional Office to efficiently process all licences and approvals, not just s26D licences in relation to monitoring bores.

Another issue of concern relates to the definition of 'water balance'. Defining water balance is fundamental to appropriate water management. CME recommends that the stages in defining the Water Balance need to be expressly reflected within the components of the Guidelines.

There is no issue with the non-tradeable nature of dewatering entitlements. However, there is significant concern with regard to the proposed sanctioning of any sale of water from a dewatering operation. This is again considered to be new policy that has not been adequately discussed with stakeholders. The sale of dewatering abstraction for third party use enables recouping of (some) infrastructure costs associated with providing dewatering water to other users, and is considered to provide for beneficial use of the abstracted water. The opportunity to sell the water for use is considered to be better than discharge to the environment. The groundwater resource will still be available for abstraction for other uses after completion of mining. However, it is acknowledged that a new abstraction licence and operating strategy would be necessary once pumping for mine dewatering had ceased.

There is a proposed volume limit to test pumping of 50,000 kL. As this is a new policy, it is requested that the basis for this volume (or any other volume) be provided so that the issue can be discussed. It is unclear why such a limit is proposed as the reason for test pumping is to obtain adequate information for aquifer hydraulic parameter characterisation. Although there are standard test pumping procedures and test durations, the highly permeable nature

of some Pilbara aquifer systems have required test pumping for extended periods (e.g. weeks to months) to obtain appropriate information. It is unclear what will be achieved by setting an apparently arbitrary limit to the volume that can be pumped under a s26 exploration licence.

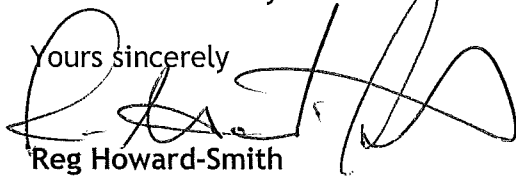
Conclusion

The CME appreciates the opportunity to contribute comment in relation to the draft *Pilbara Water in Mining Guidelines*, and trusts that the concerns of the resources sector will be carefully considered.

In addition, CME wishes to draw your attention to the submissions made by individual members companies to the draft *Pilbara Water in Mining Guidelines*.

Please contact Michele Chiasson on (08) 9220 8534 or via m.chiasson@cmewa.com if you wish to discuss any of the matters raised in the content of this submission.

Yours sincerely



Reg Howard-Smith
Chief Executive