

8 September 2021

Better Regulation Practice
Department of Water and Environmental Regulation
Locked Bag 10
Joondalup DC, WA 6919

Sent via email: betterregulatorypractice@dwer.wa.gov.au

Dear Sir / Madam,

RE: CONSULTATION FOR DRAFT GUIDELINE – ASSESSMENT OF ENVIRONMENTAL NOISE EMISSIONS

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia (WA). CME is funded by member companies responsible for more than 88 per cent of the State's mineral and energy workforce employment.¹ The value of royalties received from the sector totalled \$9.3 billion in 2019-20,² accounting for 28.8 per cent of general government revenue.³ Now accounting for 47 per cent of the State's total industry Gross Value Added,⁴ the sector's exports are likely to remain a major contributor to Australia's economic recovery from its largest global contraction since the 1940s.⁵

CME welcomes the opportunity to provide a submission to the Department of Water and Environmental Regulation (DWER) on the draft Guideline: Assessment of environmental noise emissions (the Guideline), released for public consultation on 17 June 2021. Detailed comments and recommendations have been outlined in the table below.

CME thanks DWER for the opportunity to comment on the draft Guideline and looks forward to continuing to work with DWER through this review process.

Should you require any further information, please contact Kira Sorensen, Senior Adviser – Environment & Sustainability.

Yours sincerely,

Robert Carruthers
Director – Policy & Advocacy

¹ Full-time employees and contractors onsite in 2019-20, excludes non-operating sites. Government of Western Australia, *2019-20 Economic indicators resources data*, Safety Regulation System, Department of Mines, Industry Regulation and Safety, 25 September 2020.

² Ibid.

³ Government of Western Australia, *2019-20 Annual report on State finances*, Department of Treasury, 25 September 2020.

⁴ Cassells, R. *et al*, *BCEC Quarterly economic commentary*, Bankwest Curtin Economics Centre, 26 November 2020, p. 2.

⁵ Commonwealth of Australia, *Resources and energy quarterly: September 2020*, Department of Industry, Science, Energy and Resources, 29 September 2020.

Page	Relevant Excerpt from the Guideline	Comments / Recommendations
General		
<p>Recommend change “prescribed premises” to “prescribed activities” to align with recent amendments to the <i>Environmental Protection Act 1986</i> (EP Act).</p> <p>Recommend remove references to “works approvals” to align with recent EP Act amendments.</p> <p>CME notes the changes to Part V of the EP Act related to “prescribed activities” and “works approvals” have not yet come into effect but likely will in the near-term when considered alongside the anticipated timeframe for this guideline to be finalised. Several further comments below are made in anticipation of the imminent implementation of the changes in Part V of the EP Act.</p>		
4. Legislation		
3	<p>4.1 Environmental Protection Act</p> <p>“Under <u>s.60(3)(a)</u> of the EP Act conditions on works approvals and licences may specify standards more stringent than those prescribed.”</p>	<p>Recommend update Act reference to reflect recent EP Act amendments – section 60B(3).</p>
7. Factors and standards		
12	<p>7.2.2 Operational noise – other matters</p> <p><i>Noise buffers –</i></p> <p>“Under <u>s.51</u> of the EP Act noise emissions from any premises are required to comply with prescribed standards regardless of ‘who was there first’.”</p>	<p>Recommend update Act reference to reflect recent EP Act amendments.</p>
13	<p>7.2.3 Airblast levels from blasting (Noise Regulation 11)</p> <p>“[...] Category 8 Mineral sands mining and Category 9 Coal mining.”</p>	<p>Note these categories will likely require revision to adopt changes in line with EP Act amendments and hence these statements will likely require revision before this guideline is finalised.</p>

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13	<p>7.2.3 Airblast levels from blasting (Noise Regulation 11)</p> <p>“Blasting is subject to the provisions of the EP Act and the Noise Regulations. It is within the definition of prescribed activities that include ‘mining’, such as Category 8 Mineral sands mining and Category 9 Coal mining. No other definitions for prescribed activities incorporate the activity of blasting.</p> <p>For example, the prescribed activity Category 5 Processing or beneficiation of metallic or non-metallic ore does not refer to mining or blasting in the activity description.”</p>	Note these categories will likely require revision to adopt changes in line with EP Act amendments and hence these statements will likely require revision before this guideline is finalised.
15	<p>7.2.6 Noise emissions not addressed by Noise Regulations</p> <p><i>Unreasonable cumulative noise –</i></p> <p>“[...] the department expects that the EPA’s objectives for noise will be met, as far as practicable, by the applicant: [...]</p> <ul style="list-style-type: none"> • <u>achieving a noise emission level consistent with overall noise emissions from the industrial estate coming into full compliance with the assigned levels.</u>” 	Recommend clarification – it is unclear how this would be possible if the industrial estate cumulative noise emissions already exceed assigned levels.
16	<p>7.2.7 Other types of receptors</p> <p><i>Camps for construction or operational staff –</i></p> <p>“Camps for operational staff should be off the prescribed premises where practicable and designed to achieve compliance with the assigned levels.”</p>	Recommend remove – the location of operations camps may or may not be located within prescribed premises with numerous complex factors affecting the siting of camps. This statement is likely to cause confusion and is unnecessary.
9. Screening noise emissions		
19	<p>“If blasting is involved during construction or operational activities for Category 8 (mineral sands) or Category 9 (coal mining), an additional blasting-specific screening process (Part 3 of Appendix A – Screening from) needs to be followed. This applies only to airblast noise and not to ground vibration.”</p>	Note these categories will likely require revision to adopt changes in line with EP Act amendments and hence these statements will likely require revision before this guideline is finalised.

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10. Detailed noise emission assessment		
20	“A detailed assessment may also be required when the department disagrees with a screening analysis [...]”	Recommend clarification – no clarification is provided on what basis the department would be able to disagree with a screening analysis. Any disagreement must be supported by robust and relevant scientific evidence.
Document implementation		
21	“The guideline will not generally be used retrospectively, outside the department’s normal licensing processes, to reassess existing facilities. However, in situations where there is evidence of unacceptable noise impacts from existing premises, the department may initiate a review of the licence, informed by this guideline, and new controls may be applied through licence conditions.”	Recommend clarification – in instances where the Guideline is applied retrospectively upon review of licence, the evidence of unacceptable noise impacts used to justify this retrospective application should be scientific and verifiable, not anecdotal.
Appendix B – Detailed noise emission assessment		
29	1.1 Ambient noise <i>Measurement considerations</i> – “Sample periods should be a minimum of 15 minutes, or <u>maximum of one hour.</u> ”	Recommend change to “maximum of four hours” to align with the representative assessment period defined in the <i>Environmental Protection (Noise Regulations) 1997.</i>
36	1.5 Comparison of noise predictions with assigned levels <i>Individual noise receiver</i> – “Determine the assigned noise levels (LA max, LA 1, LA 10) for the following time periods: [...]” • 9am–10pm on Sunday or a public holiday (<u>Sunday</u>)”	Recommend correct “(Sunday)” to “(day)”.
40	5. Transport noise <i>Light vehicles</i> – “An estimation of light vehicle numbers and shift changeover times needs to be included in the detailed noise emission report.”	Recommend clarifying on which roads (public or private) and within what proximity to the prescribed activity that the estimation of light vehicle numbers and shift changeover times must be included in the detailed noise emission report.