

7 February 2020

Native Vegetation Strategy
Department of Water and Environmental Regulation
Locked Bag 10
Joondalup WA 6919

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

Dear Sir / Madam,

RE: CONSULTATION FOR NATIVE VEGETATION IN WESTERN AUSTRALIA ISSUES PAPER

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by member companies responsible for more than 85 per cent of the State's mineral and energy production and workforce employment. The value of royalties received from the sector totalled \$6.8 billion in 2018-19,¹ accounting for 21 per cent of general government revenue.^{2,3} In addition to contributing 40 per cent of the state's total industry Gross Value Added,⁴ commodity export earnings from the sector have helped Australia withstand the global financial crisis and post-recovery period of 2007-10.^{5,6} The sector is therefore a key driver of the local, state and Australian economies.

CME welcomes the opportunity to provide a submission to the Department of Water and Environmental Regulation (DWER) on the Native Vegetation in Western Australia Issues Paper (the Issues Paper). This letter is structured around the proposed initiatives for improving vegetation management in alignment with the Issues Paper. In preparing this letter, CME has sought feedback from member companies.

1. A State native vegetation policy

CME supports the development of a State native vegetation policy with consistent, transparent objectives for the management of native vegetation across all government processes. A State policy can provide certainty for industry and the opportunity for consistency of regulatory approach, particularly assessment of approval applications.

In principle, CME supports the following policy objectives as proposed by DWER:

- The management of native vegetation is consistent, transparent and strategic, and strikes a balance between environmental, economic, social and cultural outcomes to Western Australians.
- Western Australia's native vegetation is strategically conserved and restored to maintain and improve ecological function and biodiversity at a landscape scale.
- Higher priority and strategic protection for unique and at-risk native vegetation, tailored to the regional setting.

The application of a State native vegetation policy to existing government processes for the assessment, approval and management of native vegetation clearing must be carefully considered in consultation with industry. CME looks forward to further consultation with DWER on this aspect.

¹ Government of Western Australia, *Annual report 2018-19*, Department of Mines, Industry Regulation and Safety, November 2019, p. 77.

² References hereafter to Government refer to the Government of Western Australia, unless otherwise indicated.

³ Government of Western Australia, *2018-19 Annual report on State finances*, Department of Treasury, September 2019, p. 8.

⁴ Duncan, A. and Kiely, D., *BCEC Briefing note: WA Economic update*, Bankwest Curtin Economics Centre, November 2019, p. 4.

⁵ Commonwealth of Australia, *Resources and energy quarterly*, Office of the Chief Economist, Department of Industry, Innovation and Science, December 2018, p. ii.

⁶ Commonwealth of Australia, *Resources 2030 Taskforce*, Department of Industry, Innovation and Science, December 2018, p. 20.

2. Better information

CME support government decisions which are evidence-based, underpinned by a common platform of reliable data. Consistent, reliable information is important for ensuring coherent regulation, timeliness of assessments and transparency through evidence-based decision making.

Native vegetation datasets are routinely accessed and reviewed by industry to inform design and engineering decisions, conservation and restoration planning, monitoring program baselines, applications to clear or impact vegetation, and the scoping of offset opportunities. A single platform of reliable data provides industry the opportunity to obtain a more complete dataset of information to inform the environmental impact assessment process, and hence understand the potential broad environmental risks of operations including any cumulative impacts. From a business risk perspective, publicly available information must be accurate, particularly when assessing cumulative impacts. Inconsistent quality (including age and classification) of survey information could lead to poor decision making and misinformed policy.

CME supports improved quality of the data and science underpinning environmental policies, including ground-truthing satellite-based vegetation mapping. To support data quality and reliability, the implementation of standards for vegetation mapping, flora and fauna surveys is recommended to ensure consistency and facilitate data consolidation and comparability. It is recognised that the Index of Biodiversity Surveys for Assessments (IBSA) may achieve this, however the transition to a consistent standard may take significant time. Further, while it is noted that IBSA will improve transparency of survey data, multiple stakeholders, including government, must contribute data to ensure IBSA's completeness and effectiveness to assist in improved impact assessment, offset and project planning.

CME noted the announcement by Prime Minister, Hon. Scott Morrison, in November 2019 which committed to the development of a shared diversity database between the Commonwealth and Western Australia initially, and in turn nationally. The Department should therefore ensure adequate consideration regarding the integration of common data under shared platforms, ensure IBSA can adapt to incorporate new technologies (e.g. modern remote sensing technology), be efficiently administrated and user-friendly, and incorporate a fundamental quality assurance process for input and curation of information. Additionally, how the platform manages influencing factors, such as seasonality, changing climatic conditions and variability of species ecology, in the establishment of data precedence needs to be considered.

To understand the current scale and distribution of clearing, a single government database capturing all forms of clearing, be it approved, exempt, unlawful or historic, is recommended. This aggregated data can better inform improvement plans for the clearing management, compliance, and education.

3. Better regulation

CME supports improved regulation through clear objectives, removing duplication, improving coordination between agencies, and statutory timeframes for assessments. Cross-government regulatory processes must employ simple, well-defined approval pathways with transparent timeframes, and be supported by clear, descriptive guidelines for proponent applications. This in turn increases stakeholder and community confidence in assessments, resultant decisions and the State's overall management of its native vegetation.

CME supports the strategic use of offsets, such as through biodiversity offset funds (e.g. Pilbara Environmental Offsets Fund), to efficiently manage the cumulative impacts on biodiversity in bioregions and looks forward to the outcomes of the current review of the State's environmental offsets framework.

CME recommends the following opportunities to improve native vegetation regulation:

- Facilitate greater distinction between permanent and temporary clearing in the assessment and approval of native vegetation clearing. Impacts from permanent versus temporary (i.e. short to medium term) clearing can differ greatly. For example, clearing for seismic surveys and construction activities are short-term, while clearing for mining activities are medium-term (with a potentially differing final landscape), and clearing for housing developments and permanent infrastructure (e.g. highways, rail and ports) are permanent. A risk-based approach to clearing assessment and approval should consider temporal aspects of the disturbance.

- Reform appeals for native vegetation clearing decisions under the *Environmental Protection Act 1986* (EP Act) should occur only at the stage most relevant and significant – i.e. either at the stage of Part IV or Part V, but not both. The current ability to appeal more than once for the same decision increases regulatory burden and extends approval timeframes without environmental benefit. This improvement can be addressed in the current amendments to the EP Act.
- Introduce a multi-lateral agreement between State and Commonwealth agencies to establish a Designated Authority authorised to make final decisions on clearing approvals, ensuring clearing applications are assessed only once. Currently, land clearing may be assessed by the Environmental Protection Authority (EPA) for Part IV referral under the EP Act and deemed not significant, consequently undergo assessment under the Part V native vegetation clearing permit process (administered by DWER), additionally require approval via a Mining Proposal under the *Mining Act 1978* (administered by Department of Mines, Industry Regulation and Safety (DMIRS)), and subsequently require approvals under the *Biodiversity Conservation Act 2016* (administered by Department of Biodiversity, Conservation and Attractions (DBCA)). This scenario presents a real and meaningful opportunity to streamline regulatory assessments, without sacrificing environmental standard.
- Duplications across agencies also exist for proponents' annual and compliance reporting requirements. A single, central database of native vegetation clearing would assist to remove duplication across agencies, however amendments to all existing approvals with reporting requirements would be required.
- CME also supports the retaining of current exemptions and approvals under existing legislative instruments, as these reduce administrative burden and duplicative assessments in certain areas.
- The proposed amendments to the EP Act to introduce a referral system for clearing permits to allow the CEO to determine whether or not a permit is required is also supported, however a bypass option must be included to allow applicants to elect to enter directly into the clearing permit application process.

4. A bioregional approach

In principle, CME supports regionally tailored objectives for native vegetation management, balancing environmental, community and economic benefits. The ability to adopt a risk-based approach to vegetation management, aligned with the unique value of a bioregion, can further enable improved assessment of cumulative impacts, effective offset planning and development, and appropriate region-specific targets which, in turn, can help to better inform policy and strategic decision making.

A planned approach will need to be developed for the management of cumulative impacts within bioregions, the co-incidence of high-value vegetation with high-value development, as well as the planning and implementation of environmental offsets. Clear targets and thresholds are required to assist industry and investors to understand the likelihood of gaining environmental approvals, and processes for the management of projects which span more than one bioregion will need to be developed.

Further information is required regarding the elements which would be considered within a bioregional approach. Bioregional areas, while encompassing large areas of resilient and well-represented native vegetation, can still include small and / or isolated areas with significant biodiversity value. A bioregional approach must ensure that these areas of differing biodiversity value are not disadvantaged by a 'blanket' policy approach to native vegetation management across the region. Furthermore, not all bioregions have the same level of survey information publicly available. Consequently, the availability and reliability of bioregional data will need to be considered in the implementation framework, and the process for integration of this approach be developed in consultation with industry.

In conclusion, CME is supportive of streamlining actions which improve the consistency, transparency and fairness of government decision making, whilst providing for the effective conservation of the State's unique biodiversity values in balanced consideration of social and economic values. Every effort should be undertaken to maximise the opportunity for such reforms when they present, including through this native vegetation strategy process.

CME thanks DWER for the opportunity to comment on the Issues Paper and for the briefing of CME members, and looks forward to continuing to work with DWER through this review process.

Should you have questions regarding this letter, please contact Kira Sorensen, Senior Policy Adviser – Environment.

Yours sincerely,

Robert Carruthers
Director – Policy & Advocacy