



Invitation to comment on a draft assessment bilateral agreement with Western Australia under section 49A of the *Environment Protection and Biodiversity Conservation Act 1999*

On Thursday 26th of June, the Environmental Consultants Association (ECA) held a forum entitled "Aligning Federal and Western Australian EIA", which was focused on the draft bilateral agreement between WA and the Commonwealth Government. The forum included a World Café where participants were asked to comment on what was positive about the draft bilateral and what changes to recommend.

Participants at the forum were from state government agencies, public infrastructure providers, consultants, industry representatives, the non-government sector and academic institutions.

Below are the key issues raised in the Café: please accept this as the formal submission of the ECA on the draft bilateral.

Aspects of the draft agreement endorsed/supported

1. The bilateral should improve communication and collaboration between agencies at the State and Commonwealth levels.
2. If that collaboration leads to one agreed set of environmental standards, that is also supported. This will lead to greater consistency of conditions and the avoidance of conflicting conditions. It should also make compliance auditing more efficient and effective through the commitment to have complementary monitoring programmes for compliance. The collaboration should also lead to better data sharing between the State and the Commonwealth.
3. A single assessment process should remove duplication, improved timeliness and efficiency, including fewer agencies that proponents will have to deal with. This should also lead to cost savings for the proponent. As well, having the 'local' environmental agency (the EPA) assessing proposals should lead to environmental outcomes that reflect a better local understanding of the environment.
4. The explicit commitment to non-duplication of conditions [8.1(c)(ii)] is supported.
5. The inclusion of API level of assessment and the Part V clearing of native vegetation process in the bilateral is supported.

6. The commitment that proposals/actions having level of assessment set at API will have comprehensive proponent driven community consultation prior to referral is supported.
7. Section 9.4, which allows for having common guidance documents, is supported.
8. The bilateral should lead to better involvement of indigenous people in WA and lead to better outcomes for them.

Recommended changes to the draft agreement endorsed/supported

Recommended changes most strongly supported

9. Whilst, overall, the draft bilateral is supported, the bilateral on approvals should have been developed at the same time. The relationship between the two are so strong, it makes no sense to develop them separately. i.e. one informs the other.
10. It is highly likely that the bilateral will lead to the EPA either doing more assessments, or that assessments will have wider scopes. So that the quality of assessments is maintained, the EPA needs extra resources to ensure effectiveness of EIA not compromised.
11. The scope of the bilateral should be expanded to cover:
 - a. Strategic assessments
 - b. S45c and 46 changes to proposal and conditions, and
 - c. Section 48A assessment of planning schemes
12. The bilateral should also include a provision that there will be a single offsetting process to cover both MNES and State environmental factors.

Recommended changes receiving moderate support

13. Greater clarity is needed as to what types of assessments are included and not included in the bilateral.
14. Monitoring and compliance of conditions should be done at the State level only.
15. A single set of environmental standards should be applied in assessments - i.e. the WA standards to apply. WA should be given the resources to develop policies/standards for MNES
16. There needs to be a single referral process i.e. a genuine one-stop shop.
17. Clarification is needed as to who is to refer the actions/proposals – the proponent or DMA.
18. Clarity is needed as to why 'ERMPs' are included in the bilateral given this Level of Assessment has been removed for WA EIA.

19. The bilateral should ensure that there is a single set of conditions covering assessments at both levels.
20. Without a single set of conditions and a single auditing process, this there is the potential loss of the very efficient State process by introducing parallel conditions setting, different standards and a separate approvals process.

Other suggested changes

21. The bilateral should include an initial review after a year of operation, and have reviews at regular intervals on an on-going basis. An independent body should be established to carry out the review.
22. Notwithstanding point 5, there is some concern that the pre-referral public consultation process for API's will lead to some key community concerns being lost and not reported to EPA.
23. It is noted that the dispute resolution process currently has no timelines and this is of concern. It is not clear what happens if State and Commonwealth cannot agree – this needs to be clarified.
24. Clearer designation of delegated authority is needed.
25. The time taken to introduce that arrangements once agreed to by the Minister is too long.
26. The bilateral is too process orientated and doesn't reflect the knowledge and skills of the agencies.
27. The WA Administration Procedures will need to be updated to include MNES.
28. Concern that the assessment and decision making processes of agencies other than the EPA isn't transparent and that the bilateral should ensure these other processes are more transparent and better involve the community.
29. Duplication isn't the only cause of delays - having adequate data is also a problem.

Prepared for the Environmental Consultants Association by Dr Garry Middle

June 27 2014

A handwritten signature in black ink, appearing to read 'Garry Middle'. The signature is written in a cursive, flowing style with some loops and flourishes.