

ENVIRONMENTAL IMPROVEMENT PLANS EXPLANATORY DOCUMENT



1. Introduction

Western Australia's environmental protection laws, in similarity to the legislation of most other industrialised nations, have focused considerable attention on regulating industrial activities.

While regulatory approaches have proven to be successful in halting and then preventing excessive emissions of wastes from industries, the community expects industry of all sizes to move beyond a mind-set of minimal compliance with licences or approvals to discharge wastes that are granted by the Department of Environment (DoE) or local government. This expectation introduces a new element of social responsibility where there is genuine engagement with a company's community, rather than a detached legal relationship with the Government.

Environmental Improvement Plans (EIPs) represent one tool that industry may voluntarily develop as a commitment to extend their environmental performance beyond compliance. However, EIPs can also be used to address a wider agenda of sustainability or contribute to the development of Industry Sustainability Covenants, a new initiative being progressed as part of the State Sustainability Strategy.

The purpose of this explanatory document is to outline an EIP model for Western Australia and highlight the opportunities they present for companies, their local communities and the DoE.

2. What is an Environmental Improvement Plan?

Environmental Improvement Plans (EIPs) have been used successfully in Victoria and South Australia as an effective tool to guide a company's environmental performance through a process of continuous improvement to achieve mutually agreed outcomes between the licensee, the environmental regulator, and in Victoria, the community.

In their simplest form, EIPs are a schedule of prioritised projects designed to achieve specific environmental objectives. Each project is clearly defined in terms of a series of objectives, actions and anticipated improvements or outcomes by which performance can be measured. Ideally all aspects of a company's environmental performance should be dealt with by one or more projects in the EIP.

More importantly, an EIP is an agreement between a company, its community and the environmental regulator and represents a serious commitment by all parties to abide by the spirit and intent of that agreement.

To give an EIP appropriate status, it is intended that EIP documents would be signed off by a senior company representative, a community representative and the Director General of the DoE.

Common issues that EIPs can address include:

- Identification, assessment and evaluation of options for improved environment performance;
- An integrated approach to achieving better environmental outcomes;
- Application of waste minimisation and cleaner production technologies;
- Water and energy efficiencies;
- Assessment of new and emerging technologies;
- The resolution of complaints from the public;
- Provision for contingency or emergency plans;
- Community relations, health and safety issues; and
- Community reporting requirements on progress;

One of the key advantages offered by EIPs is that they can address a wide range of environmental issues. Although licence conditions will continue to address relevant environmental issues and risks within the scope and legal enforceability of the *Environmental Protection Act 1986*, EIPs can be very effective in describing the management processes and agreed targets in greater detail.

3. What are the benefits of an EIP?

Key benefits to industry, community and the DoE include:

- Improved environmental performance.
- An agreed framework for licensee's to extend beyond compliances.
- The development of more sustainable business practices.
- A closer match between community expectations and industry performance.

Increasingly, these benefits are also being recognised as key components of sound business management. Other benefits may include:

- Improved financial performance as some improvements through the EIP process can be achieved through the implementation of waste minimisation and cleaner production principles which can result in cost savings.
- Flexibility to take an integrated approach to environmental improvement or to concentrate on the improvement of particular areas of performance.
- Improved relationships with the community through a mutually agreed plan for environmental improvement.
- In some instances, less prescriptive licence conditions, although key aspects requiring licensing under the *Environmental Protection Act 1986* will remain embedded within licence conditions.

4. How might an EIP be developed?

The DoE envisages that EIPs will be voluntarily prepared by companies that have an industry licence under Part V of the *Environmental Protection Act 1986* and wish to set targets for improved performance – doing better than licence conditions. The scale and complexity of EIPs can be tailored to suit individual companies and the complexity and severity of their environmental issues. It is anticipated that they will be a valuable and relevant tool for both larger companies and also small and medium size enterprises (SMEs).

By their nature, EIPs for different companies will be structured in various ways and focus on different issues. The DoE can provide additional guidance for the EIP process and provide examples of EIP documents.

The process of developing an EIP is as important as the final document itself. It is essential that the community has the opportunity of being involved in the development, implementation and review of an EIP. Having industry, community and the DoE engaged in an open EIP process will result in stronger relationships and enhance mutual understanding.

The community involvement process may vary depending on the nature and the location of the licensee's operations. The default position is for EIPs to be developed through a process where the licensee, community and the DoE as the environmental regulator work collaboratively.

However, in some circumstances particularly for SMEs, interested parties in the community may not be readily identified or interested in being involved. In this case, a bipartite EIP process between the licensee and the DoE may occur in the first instance, with the resulting document being made publicly available.

5. Establishing a group to develop an EIP

The process for establishing a group to develop an EIP will vary depending on the level of contact a company has with its community. Attracting interested community members may involve re-contacting complainants, assessing the applicability of existing community consultation groups, using local government networks, letter box drops, holding an open day or placing advertisements in the local community paper. Although the approach for communicating the opportunity of being involved in an EIP development group will differ, it is essential that issues of appropriate representation, procedural justice and adequate resourcing are always carefully considered.

There are several important principles that should always be addressed and decided upon with equal involvement from the licensee, community representatives and staff from the DoE when the group developing an EIP is first being established.

The DoE will not participate in the development of an EIP unless the process is credible and equitable for all participants.

These principles are not unique for groups developing an EIP and should be considered in any process where multiple interests are being represented and there is a need to work collaboratively.

As the process of developing an EIP will consist of representatives from three different groups - the licensee, community and DoE - they can be referred to as a tripartite process.

The purpose of tripartite processes is to make better decisions that reflect the interests and concerns of all affected stakeholders.



General principles for tripartite groups - the right behaviours

Trust Like all public participation processes, tripartite processes should at all times encourage actions that build trust and credibility for the process and among participants.

Honesty All participants need to be honest at all times. Be open to scrutiny and acknowledge mistakes made in the past. Do not make commitments that can not be kept.

Constructive Attitude Tripartite processes should avoid strategies that tend to polarise interests or appear to divide and conquer. Listen, respect different viewpoints and share control.

Openness Information relevant to the communities understanding or evaluation should be disclosed.

Access to the process All groups should have the opportunity to take part, contribute and influence the tripartite process.

Be clear in defining the scope It is essential that the scope and extent of issues that are available for the group to consider are agreed upon so there is a common expectation and understanding amongst all participants.

Be clear in defining decision making roles The process and the role of the three interests represented will have in the decision making process should be carefully considered and accurately communicated to those both inside and outside the process.

Adapted from:

Consulting Citizens – A Resource Guide
Department of the Premier and Cabinet, April 2002.

5.1 Representation and membership

The company, community and DoE should always be represented on the group developing an EIP. When determining who should represent each of these three groups, it may be useful to consider the following list of stakeholders.

- Local residents;
- Representation from local community groups (P & C Groups / Rate Payer Associations);
- Existing community consultation groups;
- Spokesperson mandated by the local community;
- Local government authority;
- Company – Senior management / decision makers;
- Company – Employee’s who operate the plant;
- Department of Environment – Senior officers;
- Elected officials;
- Other government agencies; and
- Observers.

During the initial meetings it is recommended that the group developing the EIP revisit membership to ensure that each group is appropriately represented and that all identifiable stakeholders generally agree the membership.

Numbers in the group can also be an issue. Ideally around eight to 12 people is a good number, although it is important to have as much participation from local residents as possible. People do come and go, so having a core group and the opportunity for observers to attend can deal with any number in excess of the optimum.

Procedural justice

In the early stages of the process, it is important to look at some “ground rules” such as who will chair meetings, where they will be held, who will take and distribute meeting notes, and how decisions will be reached. Decision-making is a particularly important aspect to consider.

Requirements commonly considered and agreed upon by members of the group to ensure the process is fair and equitable include the:

- Terms of reference for the group;
- Need for an independent Chair & administration;
- Roles and responsibility of members;
- Commitment to an agreed code of conduct.

5.2 Adequate Resourcing

Companies will be expected to meet the expenses associated with the development, implementation and review of the EIP. It is important that the resources a company is committing to make available is clearly communicated upfront. How those resources are best used through each part of the process can be guided by the EIP development group.

It is important that community members on the EIP development group are resourced in a manner which will enable them to contribute. Issues commonly considered in community involvement processes that should be discussed during the establishment of an EIP development group include:

- Sitting fees
- Travel expenses
- Access to information
- Childcare arrangements
- Stationary expenses
- Access to independent expert advice

Further references which may assist in establishing a group to develop an EIP are detailed in section 9 of this document.

6. EIPs will assist in moving towards sustainability

EIPs are primarily about licensee's engaging with their local community and developing a plan to improve environmental performance, by committing to undertake agreed actions that are often specific to their activities and within time frames attuned to their capacity to resource such programs.

The extent to which EIPs go beyond traditional environmental issues rests with the licensee and their community, however the inclusion of local economic, social and environmental issues in management processes are encouraged. Implicit in this is that an industry must be a part of the community in which it is located and should strive to minimise adverse impacts of all kinds and maximise mutual benefits.

Although the DoE as the environmental regulator will generally limit its input and interest to the environment, it will assist in engaging other relevant government departments in the EIP development process where appropriate.

While EIPs will primarily focus on issues relevant to a licensee's performance on an individual premises, they are flexible enough to be consistent with and even part of broader initiatives such as Industry Sustainability Covenants (ISCs) (see box). ISCs are likely to be developed between the Government and a company, which will often include multiple sites or premises, or an industry sector. ISCs will necessarily be broader in scope than EIPs and address social and economic matters as well as environmental improvement.



EIPs will focus on performance on an individual premises.



ISCs are likely to be developed for an entire company or industry sector.

The DoE will encourage the development of EIPs that drive sustainable outcomes and are consistent with ISCs and other initiatives developed in response to the State Sustainability Strategy.

Industry Sustainability Covenants

The Sustainability Roundtable is an advisory body to government with a membership drawn from community, industry and government. The Roundtable is supporting the implementation of the State Sustainability Strategy through advising the Premier on sustainability issues to do with the community, industry and the regions. It is seeking to do this through collaborative or partnership approaches involving government, business and the community. One of the Roundtable's tasks includes advising on the development of Industry Sustainability Covenants (ISCs).

ISCs will be non-binding agreements between government and progressive companies or industry associations. They can be developed with local communities and public interest organisations.

ISCs will cover all aspects of a company or industry's economic, social and environmental performance and will commit the company or industry sector to creating net benefits in each of these areas and reporting on them.

Companies and industry sectors that sign up to ISCs will be able to 'badge' their products and services with a logo endorsed and promoted by government.

Information on the Sustainability Roundtable and implementation of the State Sustainability Strategy is available from the Sustainability Policy Unit, Department of the Premier and Cabinet website www.sustainability.dpc.wa.gov.au

It is recognised that in some areas, where a significant number of industries exist, such as the Kwinana Industrial Area, having the local community engage with each individual industry for the purposes of developing separate EIPs may not be the most appropriate approach to discuss and reach agreement on improved environmental performance or issues of sustainability. In these circumstances, it may be more appropriate to consider establishing a forum where industries can engage with the community and the DoE on a collective basis such as the Kwinana Community and Industry Forum. Alternatively an Industry Sustainability Covenant could be developed.

7. How will EIP's be related to a licence?

The diagram in Appendix A explains the interaction between a licence and EIPs.

Although the EIP model presented in this explanatory document may be undertaken by a company on a voluntary basis, it is still important that the EIP be treated as a serious commitment. EIPs will be referenced in the licence assessment report that will accompany each licence so it is clearly recognised that the company has committed to a program beyond compliance.

Licences will continue to focus predominantly on emissions and discharges from prescribed premises within the scope of the *Environmental Protection Act 1986*. However, as a non-regulatory tool, EIPs will provide a more appropriate framework for describing the management of other issues and agreed improvement targets that support the conditions of the licence.

As shown in the diagram in Appendix A, failure to meet commitments in an EIP will not be treated as a breach of licence condition, noting that the general intent of the EIP process is to move away from the need to use coercive enforcement as a means of achieving improved environmental outcomes. In such an event a review of the EIP would be triggered and the DoE would also give consideration as to the relevance of the failure to the existing licence.

The model for developing an EIP detailed in this explanatory document is for licensees that decide to do so on a voluntary basis. It does not relate to or reflect the manner in which an EIP may be required to be developed and subsequently enforced through licence conditions based upon the provisions in section 62(A) of the *Environmental Protection Act 1986*.

8. Trial of recommended EIP model

It is anticipated that the EIP model outlined in this discussion paper will be trialled for an initial 12 to 18 month period. This will be dependant upon the extent to which the concept is taken up and successfully applied by licensees with their community.

The model will be reviewed by the DoE on an ongoing basis with input from key stakeholders.

Please contact the Department of Environment if you wish to comment on the recommended model or participate in developing an Environmental Improvement Plan:

info@environment.wa.gov.au or Licensing Policy Unit
Department of Environment
PO Box K822, PERTH WA 6842

9. Additional references that may assist in establishing a group to develop an EIP

Consulting Citizens – A Resource Guide (April 2002)

Citizens and Civics Unit, Department of Premier and Cabinet
Government of Western Australia

This Guide has been produced as the first step in establishing best practice guidelines for government agencies undertaking consultation. However, the Guide has broader application and can also be used by local government, project developers, politicians, consultants, non-government organisations and interest groups. An electronic version of the Guide is available at www.ccu.dpc.wa.gov.au

Consulting Citizens – Planning for Success (June 2003)

Citizens and Civics Unit, Department of Premier and Cabinet
Government of Western Australia

This Guide directs its focus towards those elements of planning that are essential in the creation of effective and meaningful consultations. The Guide has been developed in a consultative manner drawing on the experience of and input of government departments, non-government organisations and individuals. An electronic version of the Guide is available at www.ccu.dpc.wa.gov.au

Interim Industry Guide to Community Involvement (December 2003)

Department of Environment
Government of Western Australia

The purpose of this guide is to assist Western Australian business with the community involvement process by outlining the tools that can be applied at the proposal planning stage and continuing throughout the life of the development. This document has been released as an Interim Guide for a period of 12 months, ending on December 2004. The Interim Industry Guide is available at www.environ.wa.gov.au

Western Australian Public Sector Code of Ethics (revised version March 2001)

Office of the Public Sector Standards Commissioner
Government of Western Australia

The Public Sector Standards Commissioner has a general Code of Ethics that is based on the principle of justice, respect and responsible care. All consultations by State agencies must adhere to the Code of Ethics. The process must be responsive to special needs, display integrity and honesty and must not undermine public confidence. An electronic version of the General Code of Ethics is available at www.wa.gov.au/opssc

10. References

Government of Western Australia (2003) *Hope for the future: The Western Australia State Sustainability Strategy*, Department of the Premier and Cabinet, Perth. September 2003.

South Australian EPA (1999) *Environmental Improvement Programmes – Information Sheet*. IS NO. 6. July 1999.

Victorian EPA (2002) *Guidelines for the preparation of Environmental Improvement Plans*. June 2002.

Victorian EPA (2003) *Environmental Improvement Plans – A brief overview*. Draft. September 2003.

Welker Environmental Consultancy (2003) *Western Australian Licence Conditions, Independent Strategic Review*. Final Report. February 2003.

APPENDIX A

PROPOSED LICENCE AND EIP STRUCTURE

