

Department of Water and Environmental Regulation
Locked Bag 10
Joondalup DC WA 6919
Email: EPActamendments@dwer.wa.gov.au

24 January 2020

Dear Sir/Madam

Modernising the Environmental Protection Act discussion paper

Thank you for the opportunity for ARTC to provide feedback on the environmental protection legislation reforms currently taking place within Western Australia, including the 'Modernising the Environmental Protection Act discussion paper'.

By way of background, ARTC is the rail infrastructure manager for the Defined Interstate Rail Network and Hunter Valley Coal Network, providing a one stop shop for freight rail transport across Australia.

In this role, ARTC delivers a range of rail infrastructure projects and manages the operation of rail infrastructure. ARTC has responsibility for the management of over 8,500 kilometres of standard gauge track in New South Wales, Queensland, Victoria, South Australia, and Western Australia.

ARTC acknowledges the importance of modernising the *Environmental Protection Act 1986* (the Act) to ensure continued and enhanced environmental protection in WA and is generally supportive of the proposed changes.

ARTC provides the following comments on the discussion paper.

Section 2.7 Part V – Environmental Regulation

Clearing of Native Vegetation – Declaration of Environmentally Sensitive Areas – Section 51B

The drafted change to prescribing Environmentally Sensitive Areas (ESAs) in regulations appears to be a solution that will simplify the overall process for prescribing ESAs and will not impact the ability for individuals and corporations to view the ESAs.

ARTC would like to voice support for the continued provision and regular update of the ESAs as a publicly available dataset through WA's Data Catalogue. This dataset is a crucial resource for appropriately assessing clearing activities that are exempt under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (the Native Vegetation Regulations).

Clearing of Native Vegetation – Referral process for clearing permits

ARTC is supportive of the new referral system for vegetation clearing permits not subject to an exemption under the Act. However, it is not clear from the wording in the discussion paper that the existing exemptions outlined in the Native Vegetation Regulations would remain.

It would be preferential if the existing exemptions in regulation 5 of the Native Vegetation Regulations, particularly item 22, remain in their current state in the new legislation. ARTC and other transport infrastructure maintainers rely on the current exemptions to successfully complete maintenance activities and ensure WA's transport infrastructure remains safe and efficient.

Regulation of prescribed activities

It is unclear from the information provided whether any of the changes from the prescribed premises licencing system to the prescribed activities licencing system will require ARTC to be licensed under the Act. ARTC is not currently licensed under the Act as the operation and maintenance of a rail corridor does not qualify ARTC land to be a prescribed premise.

Due to the uncertainty around whether the drafted activity-based licencing may capture ARTC's activities, we would appreciate further consultation and discussion to determine the impact this change may have on ARTC operations.

In addition to the above, it is noted that the Department of Water and Environmental Regulation (DWER) have intended the change to prescribed activities to allow licencing of mobile plant and machinery. As a part of routine maintenance of the interstate rail corridor, ARTC operate mobile machinery that could potentially trigger the requirement for a licence. ARTC is supportive of the consideration of the maintenance needs of managers of linear infrastructure in any changes to the licencing system in the form of an exemption or similar.

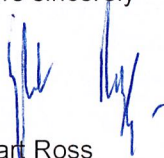
Further guidance on how licences will apply to mobile plant and machinery would also be well received to determine the applicability to ARTC.

ARTC would like to discuss the draft changes relating to the regulation of prescribed activities with the DWER in the near future. In particular, ARTC wish to discuss what form prescribed activities may take and the industries they will affect.

We trust this submission will contribute to the progression of the *Environmental Protection Act 1986* amendments.

ARTC would like to request that you contact Brodie McDougall to facilitate a discussion on the proposed amendments. Brodie can be contacted on 02 4941 2705 or bmcDougall@artc.com.au. If you have any questions regarding this submission, please contact Brodie using the details above.

Yours sincerely



Stuart Ross

Corporate Environment Manager