



Analena Gilhome
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Dear Ms Gilhome

***BUSINESS LICENSING INQUIRY – DRAFT REPORT – COMMENTS FROM
DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION***

I refer to your email dated 22 October 2018 regarding the Economic Regulation Authority's *Inquiry into reform of business licensing in Western Australia – Draft Report*.

Thank you for providing the Department of Water and Environmental Regulation (DWER) the opportunity to review and contribute.

DWER is very supportive of the inquiry and intends to use the findings and recommendations to enhance our understanding of reform priorities to inform how we continue to build our regulatory capability to deliver efficient and effective regulation across the water and environment portfolios.

We believe it is important to delineate between “Better Regulation”; how we develop and manage licensing schemes and legislation more broadly and “Better Regulatory Practice” which encompasses how the scheme or legislation is administered. Both are essential to improving how businesses interact with the approvals or regulatory processes but present different challenges and opportunities.

Please find attached a table outlining our specific feedback on the recommendations.

We looking forward to working with the Economic Regulation Authority in developing and progressing practical solutions to implement the final recommendations of this enquiry.

Yours sincerely

Germaine Larcombe
A/Director,
Regulatory Capability
14/12/2018

ERA Recommendation	DWER Response
<p>Recommendation 1: Agencies should treat business licensing schemes as public assets and continually manage and improve these schemes. To support licensing agencies to do so, and also to hold these agencies to account, a governance framework for business licensing should be implemented across state government licensing agencies. This governance framework comprises the reporting, review, consultation, transparency and oversight measures outlined in the recommendations below.</p>	<p>DWER supports this recommendation, we recommend consideration be given to the new Streamline WA initiative in the context of governance.</p> <p>Our recommendation is that in so much as is possible, any additional reporting requirements be incorporated in to the our Annual Report processes.</p>
<p>Recommendation 2: In order to encourage agencies to improve licensing schemes, agencies should report annually and publicly on:</p> <ul style="list-style-type: none"> • A program of business licensing scheme improvements the agency intends to implement in the next 12 months. • A summary of changes to business licensing schemes made in the previous 12 months. 	<p>DWER considers this recommendation requires further consideration.</p> <p>Given the disparity in current capture and oversight of schemes across the sector found by the ERA, the expectation that departments will now proceed to review schemes annually is quite aspirational. We would consider that at a minimum the recommendation should be departments centrally collate all information in respect of their licencing schemes and publish them annually. Streamline WA refers to annual reporting of regulatory reforms across departments but delineation needs to be made between licencing scheme reform and reforms in regulatory practice.</p>
<p>Recommendation 3: To make reform and improvement of licensing schemes easier, the Government should:</p> <ul style="list-style-type: none"> • Introduce an omnibus bill each year to implement any legislative changes needed to improve licensing schemes. • Ensure that, when licensing schemes are introduced or reviewed by Parliament, primary legislation includes only the elements of licensing schemes that need parliamentary consideration (for example, their objectives), and does not prescribe the administrative and procedural requirements of licensing schemes. • Consider including sunset clauses in the primary legislation for licensing schemes. 	<p>DWER support this recommendation</p>

<p>Recommendation 4: Agencies should improve consumer input into the design and management of licence schemes. The Department of the Premier and Cabinet should address this when it develops a whole-of-government strategy for community engagement, as recommended by the Service Priority Review.</p>	<p>DWER supports this recommendation</p>
<p>Recommendation 5: The Better Regulation Unit in the Department of Treasury should:</p> <ul style="list-style-type: none"> • Report publicly on agency compliance with Regulatory Impact Assessment requirements in an annual report, in accordance with current Regulatory Impact Assessment guidance. • Publish and maintain a central repository of agencies' Preliminary Impact Assessments and the Better Regulation Unit's responses. These documents should be published as soon as the Better Regulation Unit has provided its response to the agency. • Publish and maintain a central repository of agencies' Consultation Regulatory Impact Statements, submissions to those statements, Decision Regulatory Impact Statements and the Better Regulation Unit's responses. Statements and Better Regulation Unit responses should be published as soon as they are completed, and submissions to Consultation Regulatory Impact Statements should be published when received. 	<p>DWER supports this recommendation</p>
<p>Recommendation 6: A Licensing Evaluation and Reform Unit should be established as part of the business licensing governance framework. Its purpose would be to help licensing agencies develop their capability in evaluating the performance of licensing schemes and to hold agencies to account in evaluating and improving licensing schemes. The Better Regulation Unit in the Department of Treasury would be a logical place to locate this unit.</p> <p>The Licensing Evaluation and Reform Unit would have the following functions:</p>	<p>DWER considers that this recommendation should be reviewed in light of the Streamline WA initiative.</p> <p>If a unit like is considered it should cover regulatory reform in its entirety, being better regulation (scheme development and management) and regulatory practice and support Streamline WA.</p>

<ul style="list-style-type: none"> • To regularly identify priority areas for licensing reform. This will help to elevate the priority given to improving licensing schemes by government. • To support and assist agencies in developing a culture of continuous improvement in managing their licensing schemes, and in applying the analytical framework and guidelines for assessing their regulatory schemes described in appendix A. • To provide a central repository for existing guidance material, develop further guidance material where there are gaps, and train agencies in licensing evaluation. • To compile and publish annual State of Licensing reports, based on agencies' assessments of their licensing schemes against a common performance checklist (see Recommendation 7). The report would provide an assessment of the overall quality of licensing in Western Australia, and of agencies' performance in managing their licensing schemes. • To coordinate and prepare the annual omnibus bill to implement legislative changes needed to improve licensing schemes proposed in Recommendation 3. • To maintain a catalogue of business licensing schemes and administering agencies. • To publish agencies' reviews of licensing schemes. 	
<p>Recommendation 7: Agencies should report to the Licensing Evaluation and Reform Unit annually on the management their licensing schemes using a performance checklist. This will hold agencies to account for evaluating whether licensing schemes are achieving their intended objectives, being administered in a cost-effective way and being complied with. These performance checklists should be published so that stakeholders can consider whether they agree with the assessments and provide feedback</p>	<p>See comments in relation to recommendation 1. This recommendation should also be should be reviewed in light of the Streamline WA initiative.</p>
<p>Recommendation 8: Agencies should review the outstanding review recommendations for the 65 licensing schemes that have been reviewed in the last five years but have not had recommendations implemented (listed in appendix C). Agencies should consider whether any of the recommendations should be implemented through the next omnibus bill.</p>	<p>DWER supports this recommendation</p>

Recommendation 9: Agencies should assess licensing schemes that have not been reviewed in more than 10 years (appendix B), to determine whether a major review is required.	DWER supports this recommendation
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