



Government of **Western Australia**
Department of **Health**

BHP

Memorandum of Understanding
between the
Department of Health and
BHP Nickel West Pty Ltd
for Drinking Water

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Modification / Approval History

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM is entered into on the 17th day of June 2024.

BETWEEN BHP NICKEL WEST PTY LTD ("*the Licensee*")

OF THE ONE PART

AND THE DEPARTMENT OF HEALTH ("*the Department*")

OF THE OTHER PART

CONTEXT

- A. The Licensee is a corporatised body that is constituted under the [Corporations Act 2001 \(Cth\)](#).
- B. The Licensee has been granted an operating licence by the Economic Regulation Authority, under the [Water Services Act 2012](#).
- C. The Licensee has the responsibility for providing a potable water supply service in accordance with its Operating Licence WL52.
- D. The Department of Health is, amongst its other functions, the regulatory agency for drinking water quality in Western Australia.
- E. The Department of Health has a role in providing advice to the Government of Western Australia on standards in relation to drinking water quality and associated risks to public health.
- F. The Department of Health and the Chief Health Officer have certain responsibilities in relation to the protection of public health under the [Public Health Act 2016](#) and the [Health \(Miscellaneous Provisions\) Act 1911](#) and other relevant legislation.
- G. Both parties have a general public health duty, under section 34 of the [Public Health Act 2016](#), to take all reasonable and practicable steps to prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by them.
- H. The [Advisory Committee for the Purity of Water](#) is a non-statutory inter-departmental committee that operates under the chairmanship of the Department of Health in accordance with its terms of reference and provides advice to the Ministers for Health and Water on drinking water quality.
- I. The "[Australian Drinking Water Guidelines](#)", published by the National Health and Medical Research Council and Natural Resources Management Ministerial Council, provides an authoritative reference on what defines safe, good quality water, how it can be achieved and how it can be assured.

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1.0 Foreword

1.1 Preface

This Memorandum of Understanding is designed to establish and maintain a strong co-operative relationship between the Licensee and the Department for managing drinking water quality and protecting public health.

The Memorandum operates within a licensing framework established by the Economic Regulation Authority in accordance with the [Water Services Act 2012](#). Obligations pertaining to this Memorandum are set out in the Operating Licence.

This Memorandum incorporates the 'Framework for Management of Drinking Water Quality' approach and the Guiding Principles set out in the "[Australian Drinking Water Guidelines](#)", and is designed to integrate all facets of the drinking water quality management and assurance system.

This Memorandum recognises the Department as the regulator of drinking water quality in Western Australia. Consequently this Memorandum enables the Department to audit the Licensee's drinking water quality, management and reporting systems to provide assurance of ongoing satisfactory performance.

Both the Department and the Licensee recognise that the risk management practices used to establish and maintain high levels of drinking water quality need to be open and transparent. Both organisations commit to ensure that performance will be reported in a timely manner and is open to public scrutiny.

Both parties are committed to implementing the "[Australian Drinking Water Guidelines](#)".

For the avoidance of doubt, the Memorandum does not cover:

- Matters that are covered by the Western Australia food regulatory framework (e.g quality and safety of drinking water or ice at registered food premises located at or servicing the Licensee's premises); or
- matters that are covered by the Western Australia aquatic facilities regulatory framework (e.g water at first aid facilities at aquatic facilities located at or servicing the Licensee's premises); or
- provision of bottled or packaged water; or
- drinking water at catered events that is not reticulated; or
- chilled water, ice, hot water or boiling water from a means that is not plumbed-in to a reticulated water distribution system.

The Memorandum refers to non-drinking water that may be provided by the Licensee, but only to the extent of ensuring that any such non-drinking water supply can not be confused with or contaminate a drinking water supply.

1.2 Design of the Memorandum

The Memorandum outlines the agreement for the:

- management of drinking water quality;
- audit of drinking water supply systems;
- publication and exchange of information and data; and
- managing events of public health significance.

In addition, this Memorandum incorporates and makes reference to:

- **Schedules** – documents prepared by the Department for general application in relation to the supply of drinking water in Western Australia, or documents listing relevant information about the Licensee’s drinking water supply systems that is not confidential in nature.
- **Binding Protocols** – documents prepared by both the Department and the Licensee for detailing protocols to be followed for prescribed events. These documents are not publicly available as they may contain operationally sensitive information.
- **Drinking Water Quality Risk Management Protocols** - documents prepared by the Licensee to facilitate the operational implementation of drinking water quality management procedures. These documents are not publicly available as they may contain operational specific details.

NB – blue colour coded text refers to embedded hyperlinks instead of footnotes.

2.0 Interpretation

Terms used in this Memorandum of Understanding:

Audit	an audit by the Department as described in Section 13 of this Memorandum.
Authority	Economic Regulation Authority, established by the Economic Regulation Authority Act 2003 .
Chief Executive Officer	for each party, the person whose signature, name and title is recorded in section 18 of this Memorandum.
Chief Health Officer	has the same meaning as in the Public Health Act 2016 .
Critical control point	has the same meaning as in Section 3.3.2 and the glossary of the Guidelines, viz a point, step or procedure at which control can be applied and which is essential to prevent or eliminate a hazard or reduce it to an acceptable level.
Department	Department of Health (Western Australia)
Drinking water	water intended primarily for human consumption but which has other domestic uses.
Drinking water quality risk management protocol	document prepared by or on behalf of the Licensee to facilitate the operational management of drinking water quality practices and are intended as components of a drinking water quality risk management plan.
Drinking water quality policy	a document that expresses the Licensee's commitment to the management of drinking water quality that has been prepared in accordance with the principles and objectives of section 3.1.1 of the Guidelines.
Events (or Notifiable events)	has the same meaning as in Binding Protocol 4 - Exception Protocol.

Guidelines	“Australian Drinking Water Guidelines” , published by the National Health and Medical Research Council and Natural Resources Management Ministerial Council, Canberra, version 3.7, January 2022.
Guiding Principles	are the six principles set out in Section 1.1 of the Guidelines.
Hazard	has the same meaning as in Section 3.2.3 and the glossary of the Guidelines, viz: a biological, chemical, physical or radiological agent that has the potential to cause harm.
Hazardous event	has the same meaning as in Section 3.2.3 and the glossary of the Guidelines, viz an incident or situation that can lead to the presence of a hazard.
Licensee	BHP Nickel West Pty Ltd (ABN 76 004 184 598), a person with a water licence for potable water operating in Western Australia under the Water Services Act 2012 .
Memorandum	Memorandum of Understanding (this document)
NATA	National Association of Testing Authorities, Australia, ACN 004 379 748
Operating Licence	a licence granted by the Authority for the purposes of the Water Services Act 2012 .
Pesticides Monitoring Exclusion Policy	“Pesticides Monitoring Exclusion Policy” , published by the Department in September 2018, or as amended from time to time.
PSC 88	Public Sector Circular PSC 88 “Use of Herbicides in Water Catchment Areas” , endorsed by the Department on 29 August 2006.
Responsible Officer	for each party, the person whose name and title is recorded in Binding Protocol 1 – Responsible Officers of this Memorandum.

Schedule	the schedule or schedules which are appended to and form part of this Memorandum.
Water catchment area	has the same meaning as in PSC 88.
Water service	has the same meaning as in the Water Services Act 2012 .

Other terms have the same meaning as in the Operating Licence for this Licensee, unless the context indicates otherwise.

3.0 Commitment to Drinking Water Quality

The Licensee and Department are committed to ensuring that drinking water supplied by the Licensee is safe. To facilitate this, both parties will:

3.1 Resource the Memorandum

The Licensee and Department shall provide adequate resources, where required, to meet their obligations under this Memorandum.

3.2 Identify responsible officers

Each party shall identify an officer from each organisation who is responsible for monitoring, facilitating and reporting to their relevant Chief Executive Officer in relation to this Memorandum. Binding Protocol 1 – Responsible Officers identifies the Responsible Officers for the Licensee and Department.

3.3 Recognise and support the Advisory Committee for the Purity of Water

The Licensee and Department recognise and support the ongoing work of the [Advisory Committee for the Purity of Water](#).

3.4 Develop and improve drinking water quality regulation

The Department and Licensee will work cooperatively to develop and improve health based drinking water regulation in Western Australia.

3.5 Work to protect Water Catchment Areas

The Department and Licensee will cooperate with each other and other key stakeholders in areas of mutual interest to ensure adequate consideration is given to protect sources of drinking water and to promote the importance of protecting the quality of drinking water over other activities in water catchment areas.

3.6 Minimising risks from pesticides

The Department and Licensee are committed to the protection of drinking water from pesticides and will continue to co-operate and encourage involvement of key stakeholders to minimise the risk of contamination of drinking water by pesticides.

3.7 Employee awareness and training

The Licensee shall ensure that employees and contractors involved in the treatment of drinking water for or on behalf of the Licensee are appropriately trained, experienced and competent.

3.8 References to Licensee includes to its staff and contractors

The Licensee shall ensure that staff, service providers or other contractors working for or under contract to the Licensee in relation to the provision of drinking water understand and comply with the obligations on the Licensee set out in this Memorandum and that service providers or other contractors are appropriately trained, experienced and competent.

3.9 Department and Licensee to set an implementation program

If the Licensee is not able to meet a particular obligation under this Memorandum at the time of signing the Memorandum, it undertakes to establish, in consultation with the Department, a timetable to do so that is satisfactory to the Department within six months of signing this Memorandum.

4.0 Management of Drinking Water Quality

The processes for managing risk in relation to drinking water quality are as follows:

4.1 Drinking Water Quality Policy

If the Licensee has not developed a Drinking Water Quality Policy prior to signing this Memorandum, the Licensee shall develop and publish a drinking water quality policy that is satisfactory to the Department within three months of signing this Memorandum.

4.2 Drinking water quality requirements

The relevant drinking water quality requirements are set out in [Schedule 1 – Drinking Water Quality Requirements](#).

4.3 Variations to drinking water quality requirements

Subject to clause 4.7, The Department may vary the requirements set out in [Schedule 1 – Drinking Water Quality Requirements](#) in specific circumstances, provided the proposed variation does not compromise public health and the Department has given the Licensee adequate notice and reason. The Department may specify the period of time during which the variation is to apply. Variations are set out in [Schedule 2 – Variations](#).

4.4 Additional requirements

Subject to clause 4.7, the Department may, in consultation with the Licensee and the Advisory Committee for the Purity of Water, set additional drinking water quality requirements for the Licensee to comply with, or make interpretations, where the Guidelines are considered by the Department to lack relevant specificity.

4.5 Exemption in certain circumstances

Subject to clause 4.7, the Department may, on request of the Licensee, grant exemptions from requirements set out in [Schedule 1 – Drinking Water Quality Requirements](#), provided the proposed exemption does not compromise public health. In granting an exemption, the Department may specify the period of time during which the exemption is to apply and any other interim conditions that may apply. The Department shall consult the Licensee and the Advisory Committee for the Purity of Water before taking such action. Exemptions are set out in [Schedule 3 – Exemptions](#).

4.6 Water quality obligation

The Licensee shall ensure that all drinking water that it supplies to another person complies with the Department's requirements as set out in [Schedule 1 – Drinking Water Quality Requirements](#), or any variation granted under clause 4.3 or additional requirement set under clause 4.4, as the case may be, except in accordance with an exemption granted under clause 4.5.

4.7 Chief Health Officer approval to vary quality specifications

Variations, additional requirements or exemptions that are proposed under clauses 4.3, 4.4 or 4.5 have no effect until approved by the Chief Health Officer or delegate.

5.0 Other Forms of Water Supply

5.1 Licensee to notify the Department

The Licensee shall notify the Department if the Licensee provides a water service that is not intended for drinking.

5.2 Licensee's obligations if it provides water that is not intended for drinking

If the Licensee provides a water service that is not intended for drinking, the Licensee shall, in relation to that water that is supplied by the Licensee:

- Advise customers receiving that service that the water is not to be used for drinking or food preparation;
- Advise customers to notify tenants or guests at that property that the water is not to be used for drinking or food preparation;
- Provide customers with an annual written reminder that the water is not to be used for drinking or food preparation;
- Ensure that, if the Licensee provides water via a standpipe or to any public open space or area accessible to the general public that the Licensee manages, the water service is to be clearly labelled as not suitable for drinking.

5.3 Licensee's obligations to manage risk in relation to water not intended for drinking

If the Licensee provides a water service that is not intended for drinking, or the Licensee has on its premises a reticulated water supply that is not intended for drinking, the Licensee shall develop and implement protocols to ensure that any such non-drinking water can not be confused with or contaminate the Licensee's drinking water supply.

5.4 Services by Agreement

The Licensee shall, in any service by agreement arrangement that it enters with another person pertaining to the supply of water by the Licensee, ensure that the service by agreement arrangement clearly identifies whether the water to be supplied under that agreement is intended for drinking or is not intended for drinking.

6.0 Drinking Water Supplies

The Licensee shall develop, implement and maintain a risk management framework relevant to the supply of drinking water by the Licensee.

6.1 Drinking water quality risk management framework

In consultation with the Department, the Licensee shall develop, implement, maintain and review a drinking water quality risk management framework relevant to managing the quality and safety of drinking water in accordance with the Guidelines and the Guiding Principles.

6.2 Drinking water quality protocols are binding on the Licensee

Drinking water quality risk management protocols that have been endorsed by the Department are binding on the Licensee and, as the case may be, on the Department, as listed in Binding Protocol 2 – Drinking Water Quality Risk Management Protocols.

6.3 Department to advise Licensee of amendments

The Department shall promptly advise the Licensee of any amendments to the Departments' risk management protocols listed in Binding Protocol 2 – Drinking Water Quality Risk Management Protocols.

6.4 Licensee to manage and maintain barriers

The Licensee shall ensure that effective barriers are managed and maintained to prevent the potential for entry or transmission of harmful micro-organisms throughout the drinking water supply.

6.5 Risk management to cover entire catchment to tap delivery chain

The Licensee shall ensure that the drinking water quality risk management framework adequately considers any risks, hazards and hazardous events that may affect drinking water that the Licensee receives from another person as part of the water's catchment to tap delivery chain, as well as any risks, hazards and hazardous events that may affect drinking water in the Licensee's supply systems.

6.6 Source protection

The Licensee and the Department recognise their roles in source protection and will identify hazards and assess risks where required to ensure the safety of public drinking water supplies. Where risks are identified within catchments, the Licensee and Department shall respond to avoid, minimise or manage those risks.

6.7 Acknowledge Drinking Water Source Protection Plan

The Licensee shall work co-operatively with the Department in accordance with any Drinking Water Source Protection Plan endorsed by the Department of Water and Environmental Regulation that is relevant to the Licensee's drinking water supply system.

6.8 Drinking Water Quality Monitoring Plan

In consultation with the Department the Licensee shall develop, maintain and implement a drinking water quality monitoring plan that includes a program for taking and analysing water samples.

6.9 Water analysis

The Licensee shall ensure that all microbiological, chemical or radiological water samples taken pursuant to this Memorandum are taken in accordance with the Department's protocol and submitted to an analytical laboratory that perform analyses that are accredited by the NATA, and are analysed by that laboratory unless by other agreement with the Department.

6.10 Management of drinking water relating to water carting

If the Licensee or its contractors engage a water carting business as part of its catchment to tap delivery chain, or permits a person to abstract water from a stand-pipe connected to the Licensee's distribution system containing drinking water, then the Licensee shall ensure that any risks to its supply system or the quality of drinking water provided by the Licensee are adequately incorporated into and managed pursuant to its risk management plan.

7.0 Materials, Products and Chemicals

7.1 Materials, products and substances in contact with drinking water

The Licensee shall only use materials in contact with drinking water that have been approved either under Australian Standard "[AS/NZS 4020 - Testing of products for use in contact with drinking water](#)" or by the Department or have been identified by the Department as not requiring approval in accordance with a Protocol listed in Binding Protocol 2 – Drinking Water Quality Risk Management Protocols.

7.2 Chemicals approved for addition to drinking water

The Licensee shall only add chemicals to drinking water that have been approved for use by the Department.

7.3 Chemicals used to maintain water treatment and distribution systems

The Licensee shall only use chemicals to maintain drinking water treatment and distribution systems that have been approved by the Department. The Department may specify operational procedures to be followed to ensure that drinking water contamination does not occur.

7.4 Chemicals and materials used in water catchment areas

The Licensee shall ensure that chemicals applied to and used within water catchment areas by the Licensee for purposes other than direct improvement of drinking water quality have been approved by the Department. The Department may specify operational procedures to be followed to ensure that drinking water contamination does not occur.

7.5 Use of herbicides in water catchment areas

The Licensee shall not use herbicides in water catchment areas except in accordance with the provisions of [PSC 88 "Use of Herbicides in Water Catchment Areas"](#).

7.6 Licensee may seek advice

The Licensee may seek advice from the Department with respect to the suitability of materials, chemicals and procedures described in clauses 7.1, 7.2, 7.3, 7.4 and 7.5.

7.7 References to Licensee includes to its contractors

The Licensee shall ensure that contractors working for or under contract to the Licensee also comply with the obligations on the Licensee set out in section 7 of this Memorandum.

8.0 Data Exchange

8.1 Provision of Licensee water quality monitoring data

The Licensee shall submit a quarterly drinking water quality report to the Department in relation to its water sampling program, drinking water quality management and incident management, in a format agreed between the Department and the Licensee.

The Licensee shall also provide the Department with access to the full results of its water sampling program if and when required by the Department.

8.2 Provision of Department data

The Department shall provide the Licensee with reports and studies it undertakes which are relevant to those activities of the Licensee which impact on public health.

8.3 Special investigations

The Licensee shall provide the Department with copies of reports and studies undertaken by the Licensee which are relevant to public health.

8.4 Drinking water review meetings

The Licensee and Department agree to convene a Committee that meets quarterly to review and analyse drinking water quality data and issues relevant to the quality of drinking water provided pursuant to this Memorandum, and shall also agree on a meeting schedule and record keeping arrangements.

9.0 Events of Public Health Significance

9.1 Framework

The Licensee must notify the Department of events that may have a potential to affect public health in relation to drinking water that it supplies or may supply. The joint response to the event depends upon the nature of the event and the potential risk to public health.

There are four levels of response to events that affect the quality of drinking water:

- Activation of State Emergency Management Policies and Plans
- an extreme event with the potential to require State-wide/National resources.
- Activation of the Joint Agency Coordination Plan
– high level public health impact, immediate public notification may be required.

- Events Level 1
 - medium level public health impact with potential to require public notification and activation of the Emergency Co-ordination Plan; and
- Events Level 2
 - lower level public health impact requiring exception notification.

9.2 Notifiable events

Notifiable events and the corresponding response protocols are described in Binding Protocol 3 – Emergency Co-ordination Plan and Binding Protocol 4 - Exception Protocol.

9.3 Licensee to report

The Licensee shall report to the Department any event within or likely to affect its own drinking water supply systems, schemes, or assets operated under contract which may have implications for public health in accordance with Binding Protocol 4 - Exception Protocol.

9.4 Department to respond

The Department shall provide a 24-hour point of contact for the reporting of any such events, in accordance with Binding Protocol 4 - Exception Protocol.

9.5 Maintenance of incident response plans

The Licensee and Department shall agree to jointly maintain and review incident response plans for the Licensee's drinking water distribution systems.

9.6 Incident response plan training and exercises

The Licensee and Department agree to jointly undertake reasonable levels of staff training for incident response plans and conduct joint exercises annually.

9.7 Memorandum does not diminish powers of Chief Health Officer

Both the Licensee and Department acknowledge that nothing in this Memorandum can diminish or modify any power or function of the Chief Health Officer under the [Public Health Act 2016](#) or the [Health \(Miscellaneous Provisions\) Act 1911](#).

10.0 Public Health Necessity

10.1 Determination of an Event as a Risk to Public Health

The Licensee may request the Chief Health Officer or delegate to determine whether an event constitutes a risk to public health.

10.2 Declaration of water by the Chief Health Officer

The Chief Health Officer may declare water provided by the Licensee to be not fit for human consumption or a risk to public health and may specify methods of treatment or alternative sources of supply or otherwise require immediate preventative or remedial action to be taken.

10.3 Chief Health Officer to advise Licensee

On occasions where such power is exercised under clause 10.2, the Chief Health Officer shall advise the Licensee of the reasons for this declaration as soon as is reasonably possible. The Chief Health Officer shall rescind such declarations promptly when they are no longer necessary.

10.4 Communication protocols

The communication protocols outlined in Binding Protocol 4 - Exception Protocol for Events Level 1 shall be used.

11.0 Public Education and Information

11.1 Public education

The Department and Licensee may jointly develop public education programs relating to drinking water quality, recognising that the Licensee may have other obligations of this nature under its Operating Licence.

11.2 Licensee annual drinking water quality report

The Licensee shall prepare a report for the Department, in respect of each financial year, that lists drinking water quality testing conducted and their results in a format agreed to between the Department and the Licensee, as well as information demonstrating the Licensee's performance under this Memorandum.

11.3 Timing of annual drinking water quality report

The Department shall advise the Licensee of the date by which the Licensee must submit the annual drinking water quality report prepared under clause 11.2 to the Department for endorsement. The Department must ensure that the date so specified provides the Licensee with a reasonable amount of time in which to compile the report and is, in any event, not earlier than 31 October.

11.4 Licensee annual drinking water quality report to be made public

The Licensee shall publish its annual drinking water quality report for the Department within ten days of the report being endorsed by the Department.

11.5 Department annual drinking water quality report

The Department may collate and publish an annual drinking water quality report incorporating data from the Licensee and/or other providers of drinking water.

11.6 Licensee quarterly drinking water quality report to be made public

The Licensee shall publish its quarterly drinking water quality report for the Department pursuant to clause 8.1, when requested to do so in writing by the Department.

11.7 Licensee to make data publicly available

The Licensee shall, on written request from a member of the public, make available to that person the results of drinking water quality monitoring or sampling it has undertaken in relation to drinking water supplied to that person, in a reasonable time frame. For the avoidance of doubt, monitoring or sampling in relation to drinking water supplied to a person may include monitoring or sampling in the general vicinity of or in the locality supplying the premises of that person.

12.0 Emerging Issues**12.1 Monitoring and response**

The Department and Licensee shall monitor and discuss emerging issues relevant to the quality of drinking water supplied by the Licensee that are not addressed by the Guidelines or otherwise by this Memorandum and that may be of public health significance.

13.0 Audits**13.1 Purpose of an audit**

The purpose of an audit under this Memorandum is to determine whether the Licensee has, during the audit period, complied with the obligations imposed by this Memorandum.

13.2 Department may require audit

The Chief Health Officer may, by written notice given to the Licensee, require the Licensee to be audited in accordance with the purpose set out in clause 13.1 of this Memorandum in respect of a specified audit period by the completion date specified in the notice.

13.3 Audit timetable

The audit period and completion date shall be determined by the Department in consultation with the Licensee.

13.4 Audit may only be conducted by an approved person

The audit may only be conducted by suitably qualified and experienced persons approved by the Department as an auditor for this purpose.

13.5 Department to maintain a list of suitable auditors

The Department shall provide a list of no fewer than three auditors suitable for use by the Licensee in procurement of auditing services. The Department may, or on request of the Licensee shall, nominate an auditor for this purpose.

13.6 Audit report preparation

The Department shall ensure that, after conducting the audit, the auditor prepares an Audit Report that states the auditor's opinion on whether the Licensee complied with the obligations set out in this Memorandum. The Audit Report must, if applicable, include recommendations for improvements and any other information that substantiates the auditor's opinion.

13.7 Licensee to review draft of the audit report

The Department shall ensure that the Licensee has reasonable opportunity to review a draft of the Audit Report.

13.8 Audit report to the Licensee

The Department shall provide a copy of the Audit Report to the Licensee.

13.9 Audit outcome

The Department and Licensee shall agree to discuss the findings of the audit within one month of the Department providing the Audit Report to the Licensee and will agree on a plan of action in regard to any audit recommendations, including a timetable for completion.

13.10 Audit report to the Authority

The Licensee shall provide a copy of the Audit Report to the Authority within one month of receiving the audit report from the Department.

13.11 Audit report to be published

The Licensee shall publish a copy of the Audit Report on its web site within one month of providing a copy of the Audit Report to the Authority.

The Department may publish a copy of the Audit Report at any time after the Licensee has provided a copy of the Audit Report to the Authority.

13.12 Audit cost

The cost of the audit shall be borne by the Licensee.

14.0 Role of the Department

14.1 Role

The Department's roles are to:

- protect public health under the [Public Health Act 2016](#) and the [Health \(Miscellaneous Provisions\) Act 1911](#) and other relevant legislation;
- minimise human exposure to environmental health hazards that pose or have the potential to pose a health risk; and
- reduce the incidence and impact of communicable disease.

14.2 As regulator

The Department is the regulator of drinking water quality in Western Australia.

14.3 As auditor

The Department may audit the Licensee to determine whether the Licensee has complied with the obligations imposed by this Memorandum.

14.4 As adviser to the Licensee

The Department may provide advice to the Licensee on matters related to the supply and quality of drinking water.

14.5 As adviser to the public and resource

In consultation with the Licensee, the Department will provide prompt advice to the public, including media, with respect to health-related or scientific issues related to the quality of drinking water (noting that this does not preclude the Licensee from providing its own advice to the public, including media, with respect to water quality issues).

14.6 As notifier to health care providers

The Department may notify health care providers of issues pertaining to the quality of drinking water that may affect the public.

15.0 Review and Amendment

15.1 Expiry

The term of this Memorandum shall be five (5) years from the date of signing.

15.2 Review and renewal of Memorandum

The Chief Executive Officers shall ensure that this Memorandum is reviewed and renewed not less than once every five years and that any such review

commences at least six months prior to the expiry of the term set under clause 15.1 of this Memorandum.

15.3 Amendment of Memorandum

The Chief Executive Officers may amend this Memorandum at any time upon agreement, provided that any amendment is consistent with the protection of public health in relation to the supply of drinking water.

15.4 Amendment of Binding Protocols upon agreement

The Responsible Officers may amend the Binding Protocols at any time upon agreement, provided the objective of the amendment is consistent with the protection of public health in relation to the supply of drinking water.

16.0 Completion of Memorandum

16.1 Memorandum is legally binding

This Memorandum is executed pursuant to the Licensee's Operating Licence and is legally binding between the Department and Licensee.

16.2 Provision of complete copy of Memorandum to the Authority

The Licensee shall provide a complete copy of this Memorandum to the Authority within one month of entering into the Memorandum.

16.3 Publication of Memorandum by Licensee

The Licensee shall publish this Memorandum and its Schedules on its web site within one month of entering into the Memorandum. For the avoidance of doubt, this refers to the Memorandum text and Schedules, but not the Binding Protocols or any drinking water quality risk management plans or protocols.

17.0 Dispute Resolution

17.1 Parties may provide written notice

Either party may elect to have any dispute raised in respect to this Memorandum resolved by providing written notice. Disputes arising during the performance of this Memorandum will be resolved, wherever possible, at the level where the dispute initially arises and without the need for such notice.

17.2 Parties may refer dispute to their Chief Executive Officer

Where a dispute between the parties cannot be resolved by the Responsible Officers, then either party may refer the dispute to their respective Chief Executive Officer for resolution.

18.0 Endorsements

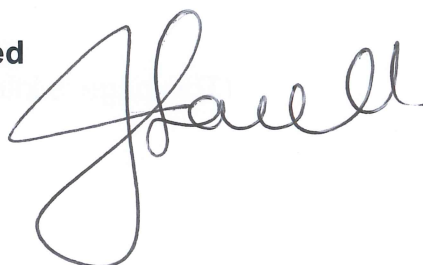
Signed



**DR PAUL ARMSTRONG
A/CHIEF HEALTH OFFICER
DEPARTMENT OF HEALTH**

Date: 17 JUNE 2024

Signed



**JESSICA FARRELL
ASSET PRESIDENT
BHP NICKEL WEST PTY LTD**

Date: JUNE 2024

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Schedules

Memorandum of Understanding for Drinking Water**Schedule 1 – Drinking Water Quality Requirements****Health-related characteristics of drinking water**

Drinking water supplied to any person must not contain any toxin, pathogen, substance or chemical, whether alone or in combination with another toxin, pathogen, substance or chemical, in such amounts that may pose a risk to human health.

Drinking water supplied to another person must also comply with the following criteria:

With respect to *Escherichia coli*:

- no sample of drinking water should contain *Escherichia coli*; and
- if detected, immediate corrective action must be taken.

With respect to *Naegleria* species:

- no sample of drinking water should contain *Naegleria fowleri*;
- no more than one water sample collected in any 12 month period in each locality supplied by the water supplier shall contain *Naegleria* species tolerant to 42° Celsius or above; and
- if *Naegleria* species tolerant to 42° Celsius or above are detected, immediate corrective action must be taken.

With respect to chemicals other than pesticides:

- the Health guideline values for chemicals set out in Table 10.6 of the Guidelines.

With respect to pesticides:

- the Health value for pesticides set out in Table 10.6 of the Guidelines, having regard to the [“Pesticides Monitoring Exclusion Policy”](#) (Department of Health, September 2018).

With respect to radiological quality of drinking water:

- the guideline value for radiological quality set out in Table 10.7 of the Guidelines.

Aesthetic characteristics of drinking water

Drinking water suppliers should aim to supply drinking water in each locality that complies, as far as practicable, with the Aesthetic guideline values for physical and chemical characteristics set out in Table 10.6 of the Guidelines. However, bearing in mind the high levels of public expenditure which would be required to achieve compliance in respect of some small water supplies, it is accepted that the achievement of this aim throughout the entire State may take many years.

Framework for Management of Drinking Water Quality

Drinking water suppliers must implement the “Framework for Management of Drinking Water Quality” as set out in the Guidelines.

Schedule 2 – Variations

The following Schedule lists variations that have been granted in accordance with clause 4.3 and clause 4.7 of this Memorandum.

LOCALITY	NATURE OF VARIATION	TIME PERIOD

(The above Schedule is blank)

Schedule 3 – Exemptions

The following Schedule lists exemptions that have been granted in accordance with clause 4.5 and clause 4.7 of this Memorandum.

LOCALITY	NATURE OF EXEMPTION	TIME PERIOD

(The above Schedule is blank)

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