

Council Ref : 37/001, 37/002, 120/016
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Strategy Policy - Environmental Protection Act 1986 amendments
Department of Water Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919

Dear Sir/Madam

ENVIRONMENTAL PROTECTION ACT 1986 AMENDMENTS CONSULTATION

Thank you for the opportunity to provide comment on the Government of Western Australia's proposal to modernise the *Environmental Protection Act 1986* (the EP Act), including a Discussion Paper and Exposure Draft Bill.

Please find below comments from the City of Belmont in relation to 'Part V - Environmental Regulation', with particular relevance to compliance undertaken under the *Environmental Protection (Unauthorised Discharges) Regulations 2004* (UDRs). Please note that these comments are the position of the City's Administration and have not been considered or endorsed by Council due to the timing of the consultation period and submission deadline.

The Discussion Paper and Exposure Draft Bill differ in their recommendations for the timeframe within which infringement notices must be issued. The City's Environment and Environmental Health Teams strongly support the recommended amendment in the Exposure Draft Bill, for the time period to be extended to 12 months.

In the experience of the City's Environment Team, the maximum penalties associated with the UDRs (\$250 or \$500) may fail to act as a deterrent, and it is recommended that the penalties are increased.

Another limitation with the UDRs is that there is no ability to require spills to be cleaned up, and it is suggested that inclusion of such a provision is considered. This may pose less of an issue if the extended infringement timeframe to 12 months proceeds, as there may be greater ability for Local Government to compel operators to clean up spills.

The Discussion Paper mentions that a review of Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations) is planned.

Whilst a review is supported, it is considered that it should be undertaken in consultation with all stakeholders, including local government, due to potential implications on local government planning and environmental regulation. In terms of planning, some local planning schemes include an 'Industry – Noxious' land use definition which applies to any use required to obtain a



prescribed premises licence under the EP Act. As such, any changes to the categories and thresholds in Schedule 1 may alter the classification and assessment of land use proposals, and potentially influence the zoning of land. Notwithstanding, it is acknowledged that the 'Industry – Noxious' land use is not included in the Model Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and may therefore be eventually phased out of local planning schemes.

In terms of environmental regulation, any changes to the categories and/or thresholds outlined in Schedule 1 of the EP Regulations would alter the regulation responsibilities of local government. More specifically, if categories are removed or production thresholds are increased, then this will reduce industries currently regulated by the State Government with the expectation that this will be managed by Local Government. The capacity of local government to regulate certain industries should form a consideration for any amendments to Schedule 1 of the EP Regulations.


It is suggested that a new provision within the EP Act or Regulations could be included requiring an accurate central database to be maintained and made available to Local Government, of all known prescribed activities and premises where a prescribed activity is known to occur. This could include those where an application is pending, or are known to be prescribed (under the current definition or equivalent in the revised EP Act), even if they do not have an active licence or registration in place.

The City's comments with regards to other aspects of the Discussion Paper and Exposure Draft Bill include:

- Recommendation for allocation of sufficient resources to deliver the Department of Water and Environmental Regulation's regulatory functions, supported by investments in better information and a more strategic approach to the management of Western Australia's unique biodiversity.
- Opposition to the imposition of cost recovery on Local Governments, as per WALGA's previous submission to the Department of Water and Environmental Regulation's Discussion Paper on Cost Recovery.
- Support for amendments to remove the requirement for 'basic' amendments to local planning schemes to be referred to the EPA and the streamlining of the assessment process for 'standard' and 'complex' amendments to local planning schemes.
- Support for amendments to the EP Act that improve administrative efficiency without negatively affecting environmental outcomes, to result in efficient and effective clearing regulations including:
 - Support for introduction of a referral process for the DWER CEO to determine the requirement for a clearing permit, for clearing for which an exemption does not apply but may not have a significant effect on the environment
 - Support for inclusion of a defence for clearing in an environmentally sensitive area to prevent danger.
- Support for licencing of the activity rather than the premises, so there will be 'prescribed activities' rather than 'prescribed premises', and the express requirement of an occupier of a premises being required to hold a licence if undertaking an activity which falls under Schedule 1 of the EP Act.
- Recommendation for a thorough independent review to ensure that Western Australia's environmental legislation is able to effectively address contemporary and interrelated challenges of biodiversity protection, natural resource management, land use, human settlements, production and consumption systems and climate change.

Thank you once again for seeking public comments that will contribute towards review of the *Environmental Protection Act 1986*. Should you require any clarification on comments provided, please do not hesitate to contact the City's Coordinator Environment, Nicole Davey on 9477 7295 or email environment@belmont.wa.gov.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Melanie Reid', enclosed within a large, loopy circular flourish.

MELANIE REID
DIRECTOR INFRASTRUCTURE SERVICES