

### 12.3.2 Environmental Protection Act 1986 Review – Consideration of WALGA'S submission

<b>Address:</b>	N/A
<b>Owner:</b>	N/A
<b>Applicant:</b>	Shire of Northam
<b>File Reference:</b>	7.2.1.6
<b>Reporting Officer:</b>	Jenny Abbott, Environmental Sustainability Officer
<b>Responsible Officer:</b>	Chadd Hunt, Executive Manager Development Services
<b>Officer Declaration of Interest:</b>	Nil
<b>Voting Requirement:</b>	Simple Majority
<b>Press release to be issued:</b>	No

#### BRIEF

The Department of Water and Environmental Regulation (DWER) has released a discussion paper outlining the proposed changes to the *Environmental Protection Act 1986* (EP Act).

As a response the Western Australian Local Government Association (WALGA) has produced a draft submission on behalf of local governments with a collective position regarding the proposed changes and Council is now requested to consider supporting the WALGA submission.

#### ATTACHMENTS

Attachment 1: WALGA Environmental Protection Act 1986 Amendments draft submission.

Attachment 2: DWER Modernising the Environmental Protection Act Discussion paper (39 pages).

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#### A. BACKGROUND / DETAILS

The Environmental Protection Act is currently 33 years old and the State Government has determined its review and update necessary. The aim of modernising the Act is to improved regulatory efficiency and effectiveness, incorporating technological developments, removing ambiguity, streamlining processes and removing duplication and barriers within its application.

In response to the legislative review, WALGA has been proactive in assisting local governments by producing a draft submission that local governments

can choose to support and provide comment on. The WALGA submission discusses proposed changes to:

- New areas of reform – bilateral agreements, environmental covenants, environmental certification and power for injunctions.
- Environmental Protection Authority responsibilities
- Environmental Protection Policy
- Environmental Impact Assessment – referral and assessment of proposals, strategic assessment, proposal application processes, conditions, compliance and enforcement, schemes and cost recovery.
- Environmental regulation – clearing permits and licences.
- Enforcement and appeals.
- Schedule 6 exemptions.

Due to limited timing between WALGA releasing their draft submission and Council meeting dates in Dec 2019 and January 2020, the local comment period on the submission did not allow time for a significant council review prior to the January 6<sup>th</sup> 2020 submission deadline. It is proposed that in the interim Council considers supporting the draft WALGA submission and provide any additional concerns or comments later in an independent submission directly to DWER by the 28 January 2020 deadline.

## **B. CONSIDERATIONS**

### **B.1 Strategic Community / Corporate Business Plan**

Theme Area 4: Environment & Heritage.

Outcome 4.3: Residents and organisations within the Shire of Northam are supported to reduce their environmental impact.

Objective: Sustainable waste management with the aim of reducing and reusing waste effectively;

Outcome 4.4: Rivers and waterways in the Shire of Northam are greatly valued and maintained to a high natural standard.

Objective: The Shire of Northam is widely known and maintained as a biodiversity hotspot and the premier destination to experience the Avon River;

Theme Area 6: Governance & Leadership.

Outcome 6.4: The Elected Members of the Shire of Northam provide accountable, strong and effective community leadership.

Objective: Open, accountable and effective decision making.

### **B.2 Financial / Resource Implications**

N/A.

### **B.3 Legislative Compliance**

Shire of Northam and its residents are required to comply with the Environmental Protection Act 1986 and it is therefore relevant for the Shire of Northam to review any proposed changes in this legislation.

#### **B.4 Policy Implications**

N/A.

#### **B.5 Stakeholder Engagement / Consultation**

The previous council agenda shut on 2 December 2019, the WALGA draft submission reviewing the Environmental Protection Act was received by the Shire on 9 December 2019, not allowing for sufficient time to present to council and obtain a position.

#### **B.6 Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	Cost associated with user pays system such as obtaining a clearing permit for road widening.	moderate (8)	To review and comment on legislative changes with councils position.
Health & Safety	Nil	N/A	N/A
Reputation	Not contributing to legislative governance and being proactive in environmental management of the Shire	Moderate (9)	To review and comment on legislative changes with councils position.
Service Interruption	Nil	N/A	N/A
Compliance	Nil	N/A	N/A
Property	Nil	N/A	N/A
Environment	Potential loss of remnant vegetation and biodiversity.	High (15)	To review and comment if environmental regulation is inadequate.

#### **C. OFFICER'S COMMENT**

The proposed amendments will provide the required update of the EP Act by modernising terminology, incorporating technology for reporting and enforcement, whilst streamlining licensing and permit processes. This will potentially benefit the planning, health, engineering and environmental services within the Shire and industry that currently experience long delays

between submissions and approvals with tedious processes currently in place for minor changes and amendments.

The WALGA discussion paper raises the exemptions for 'permits to clear' native vegetation to include exemptions for line of sight clearing and clearing in narrow road reserves for local government. It also acknowledges issues for areas such as the Wheatbelt where extensive clearing has been undertaken which is known to be *'beyond the safe ecological limits'*.

Another significant issued raised by WALGA is the enforcement of the 'cost recovery' model that commenced on 1 July 2019. The model burdens local governments with the additional costs associated with obtaining permits and licences which will inevitably be passed on to the ratepayer. This model was brought in to be a 'user pays' system, however this burdens local government with increased costs associated with clearing permits for road widening projects that inevitably serve community purpose.

Further to above, WALGA also addresses issues with changes to the Environmental Protection Authority (EPA) assessment process where the EPA can chose to only 'part assess' proposals that fall under other legislation. Only the EP Act can facilitate assessments against key environmental factors and the cumulative impacts of proposals. The requirement of the EPA to provide reports against the EPA's objectives and how other Acts would facilitate this in addition to specifying conditions and the capacity for enforcement would ensure environmental values are captured.

In summary staff believe that the issues raised within the WALGA draft submission are valid and are supported. It is therefore recommended that Council support the WALGA submission.

#### **RECOMMENDATION**

**That Council supports the draft submission developed by WALGA on behalf of local government regarding the proposed changes to be made to the *Environmental Protection Act 1986*.**

