State industrial buffer statement of planning policy 4.1
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Draft policy

Prepared under section 5AA of the
Town Planning and Development Act 1928 (as amended)
by the Western Australian Planning Commission

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1 Citation

This is a statement of planning policy made under section 5AA of the Town Planning and Development Act 1928 (as amended). This policy may be cited as State industrial buffer statement of planning policy 4.1. It revokes Statement of Planning Policy No. 4.1 State Industrial Buffer Policy gazetted on 5 May 1997.

2 Introduction

Industry and essential infrastructure are critical to the local, regional and state economy. They provide goods and services that are crucial to the social and economic wellbeing of the community. It is necessary, therefore, to protect industry and essential infrastructure from encroachment by incompatible development and more sensitive land uses that could adversely restrict their operations. Such restrictions might arise as a consequence of real or potential negative impacts of industry and essential infrastructure through emissions such as noise, smoke, dust, odour, vibration and light or by generating potential risks. The amenity and health of the community should be protected from unreasonable adverse impacts.

This policy supports the principles on which the State Planning Strategy is based - managing the impacts of growth by seeking a balance with the environment around us, the community we live in and the wealth we enjoy. The approach also provides for environmental, social and economic aspects to be considered when determining buffer areas around industry and essential infrastructure.

The best solution is for industry to contain amenity and health impacts and risk on-site. However, some industries by their nature generate a range of emissions that cannot be fully contained on-site. This could diminish the amenity and affect the health of people residing in adjoining areas and possibly expose them to increased levels of risk.

Generally, emissions decrease and the impacts reduce with increasing distance from the source. If the emissions cannot be contained on-site, then there is a need for a buffer to separate industrial areas and other sensitive land uses from the potentially offensive industrial use.

A ‘buffer area’ is the area within which sensitive land uses are prohibited or special measures are necessary to ameliorate the impacts of industry or essential infrastructure.

Sensitive land uses include residential development, hotels, motels and hostels, caravan parks, hospitals and nursing homes, schools and other educational establishments, shopping centres, and some public buildings.

Compatible land uses should be encouraged in buffer areas. In areas furthest from the source of emissions and risk, sensitive land uses may be permitted subject to conditions that ameliorate the impacts of emissions and risk.

Buffer areas are not an alternative to control at the source and high standards of environmental management by industry and infrastructure providers. Buffer areas should be considered as an additional measure to assist in the minimisation of off-site impacts from industry on sensitive and other land uses.
This policy is based on an assumption that routine industrial emissions and risk factors are identified during planning and environmental assessment processes and managed in accordance with licence conditions or statutory environmental conditions. Where licences and statutory environmental conditions are not applicable, high standards of environmental management should be adopted by industry and infrastructure providers.

In determining the use and configuration of buffer areas to avoid land use conflict between industry and sensitive land uses, the Western Australian Planning Commission (WAPC) works in conjunction with the Environmental Protection Authority (environmental assessment processes), Department of Environment (environmental licensing and regulation), Department of Health (health approvals and regulation), Department of Industry and Resources (risk assessment, licensing and regulation) and other relevant agencies.

Where existing sensitive land uses are currently located in close proximity to industry, or where it is necessary to locate residential and other sensitive land uses in buffer areas, particular physical measures and planning provisions to minimise potential land use conflicts may need to be considered. Physical measures could include, for example, design features to address noise, odour, light spill and risk. Notification (such as memorials on property titles and signage, indicating proximity to industry that could generate off-site amenity impacts) could be used to inform landowners and residents. At times where it has been more appropriate, industry has acquired land for buffer areas. Where planning provisions are needed to support arrangements negotiated between the industry or infrastructure provider and surrounding land users for the purchase or surrender of land use or development rights in buffer areas, agreement would need to be reached with the WAPC or relevant local government.

A technical analysis, which will determine the nature and level of emissions from the industry and the site context, should ideally be undertaken to evaluate proposals and determine appropriate buffer areas.

For most industries, the actual area that may be affected by unacceptable levels of off-site emissions or risk will depend on a number of factors such as the scale of the operation, the plant process, emission control measures adopted, the storage of raw materials and waste, local wind patterns, topography and other site-specific and process-specific factors.

The draft Guidelines and Criteria for Environmental Impact Assessment No 3 Industrial – Residential Buffer Areas (Environmental Protection Authority, July 1997, WA) suggests generic buffer distances that may provide guidance where a project-specific technical analysis has not been undertaken and/or is not considered to be warranted. The guidelines are non-statutory and generalised. They do not necessarily represent the actual impacts resulting from a particular activity or location.
3 Application of the policy

This policy applies throughout the state. It applies to industry, including extractive, general, mining and rural industry that may have amenity and health impacts on, and may constitute a risk to, urban and other sensitive land uses. The terms 'industry', 'industry – extractive', 'industry – general', 'industry – mining' and 'industry – rural' have the same meaning as given to them in the *Town Planning Amendment Regulations 1999, Model Scheme Text*.

The principles of the policy also apply to essential infrastructure such as ports, major freight terminals, wastewater treatment plants, water treatment plants, power generation facilities, power distribution terminals and substations, waste disposal sites and airports. Wastewater infrastructure is specifically addressed in annexure A. Telecommunications infrastructure, poultry farms and land use planning in the vicinity of Perth airport are also specifically addressed in separate statements of planning policy.

The WAPC will have regard to this policy when considering town planning schemes, amendments to town planning schemes, and subdivision and development applications.

The *Town Planning and Development Act 1928* (as amended) requires that a local government, when preparing a town planning scheme, shall have due regard to the policy. The *Town Planning Amendment Regulations 1999, Model Scheme Text* requires local government to have regard to any approved statement of planning policy in making planning decisions.

The *Town Planning and Development Act 1928* (as amended) also requires that the Town Planning Appeals Tribunal shall have due regard to the policy in determining appeals.
4 Objectives of the policy

The objectives of the policy are:

- To avoid conflict between industry and essential infrastructure and sensitive land uses.
- To protect industry and essential infrastructure from encroachment by incompatible land uses that would adversely affect their efficient operation.
- To provide for the development of industry and the provision of essential infrastructure in a way that minimises amenity and health impacts on, and takes account of risk to, nearby sensitive land uses.
- To promote compatible uses within areas affected by off-site impacts of industry and infrastructure.

5 Policy measures

5.1 Avoiding land use conflicts

New industry should endeavour to contain emissions on-site. Where this is not feasible, new industry should be located where appropriate buffer areas can be provided between the proposed industrial uses and nearby sensitive land uses.

Industries that have the greatest potential off-site amenity impacts and risks should be located towards the core of an industrial area. Industries that have a lesser potential for off-site impacts should be located towards the boundary of the industrial area. Compatible land uses and other less sensitive land uses or activities (e.g., some commercial enterprises and public open spaces) may be located within the buffer areas and provide a transition between industry and the sensitive land uses.

5.2 Technical definition of buffer area

For proposed industrial development and infrastructure, a suitable technical analysis should be undertaken by the proponent to determine the potential impacts, the appropriate buffer area, and the associated physical measures and planning mechanisms, in conjunction with environmental controls necessary to manage the impacts.

The technical analysis should have regard to measures required to meet licence conditions, best practice approaches that may feasibly reduce off-site impacts and risk associated with the siting and operation of the proposed industry, site planning factors and other relevant planning considerations. Input from the Environmental Protection Authority, Department of Environment, Department of Health, Department of Industry and Resources and other relevant agencies should be sought, where appropriate.

In proposing the development of sensitive land uses near existing industry or infrastructure, a similar technical analysis should be undertaken by the proponent.

The technical analysis should include the following:

- Identification of the nature of the off-site impacts which may adversely affect more sensitive land uses (noise, smoke, dust, odour, vibration and light) or create potential risks.
- Evaluation of the emissions and risk levels against accepted criteria.
- Recommended measures to ensure the criteria are met; this may include modification of the proposal, provision of an adequate buffer, and physical measures and planning provisions in the buffer.
- Identification of land uses that may be compatible within the buffer area.
Buffer distances should be measured from a boundary drawn to encompass all sources from which off-site emissions or unacceptable levels of risk may arise, including existing and predicted future sources to account for future expansion of the industry or infrastructure.

For the purposes of undertaking a technical analysis, the WAPC considers that the following standards or criteria are appropriate:

- **Odour** - criteria will be established through case-by-case assessments using the methodology outlined in *Guidance for the Assessment of Environmental Factors - Assessment of Odour Impacts from New Proposals*, No. 47, March 2002. Environmental Protection Authority, Western Australia.
- **Noise** - *Environmental Protection Noise Regulations 1997*, Department of Environmental Protection, WA.
- **Risk** - *Criteria for the Assessment of Risk from Industry*, Bulletin 611, Environmental Protection Authority, WA.
- **Light spill** - Australian Standard 4282-1997, *Control of the obtrusive effects of outdoor lighting*.
- **Dust** - *Ambient Air Quality Goals for Total Suspended Particulates as Recommended by the National Health and Medical Research Council*, Australia (1986) and in Australian Standard 1668-1991.
- **Air quality** - *National Environment Protection Measure for Ambient Air Quality* (NEPC, 1998) for particles (as PM$_{10}$), ozone, sulphur dioxide, nitrogen dioxide, carbon monoxide and lead and the draft variation to the NEPM for PM$_{2.5}$.

These criteria are based on existing guidelines and experience of their operational application. The criteria may be reviewed from time to time and the WAPC may choose to apply updated variations or alternative standards.

Where a project-specific technical analysis has not been undertaken and/or is not considered to be warranted, the WAPC will have regard to the buffer distances in table 2.2 of the draft *Guidelines and Criteria for Environmental Impact Assessment No3 Industrial - Residential Buffer Areas* (Environmental Protection Authority, July 1997, WA) when considering proposed new industrial uses or sensitive land uses in the vicinity of industry.

Proposals that satisfy recommended buffer distances in the Environmental Protection Authority’s draft guidelines for industrial-residential buffer areas are also deemed to comply with the objectives of this policy, where the use of the authority’s buffer distance guidance is clearly justified.

**5.3 Acceptance of buffer area by Western Australian Planning Commission**

The proposed buffer area is considered to have met the objectives of the policy once it has been agreed on by the WAPC in consultation with local governments and other appropriate regulatory authorities.
5.4 Determining planning proposals within buffer areas

The WAPC and local governments, in considering any planning proposal within a buffer area, should have regard to:

• the proximity to the emission source;
• the sensitivity of the proposed use or development to the off-site emissions and risk that may be generated from the emission source;
• the availability of mitigation measures to reduce the impact of the off-site emissions or risk;
• the potential for any increase or reduction in the off-site emissions or risk impacts in the future;
• state, regional or local planning objectives for the area;
• advice received from the Environmental Protection Authority, Department of Environment, Department of Health, Department of Industry and Resources and other relevant agencies; and
• any other relevant town planning considerations.
6 Implementation

Local and regional planning strategies and structure plans should identify the need for buffer areas around major existing and proposed industrial areas and infrastructure or uses that have the potential for unacceptable off-site amenity and health impacts or levels of risk. Buffer areas agreed by the WAPC (refer section 5.3) should be reflected in local and regional planning strategies and structure plans.

In determining the zoning of land and planning scheme provisions for industrial uses and infrastructure, or for sensitive land uses in the vicinity of existing and proposed industrial uses and infrastructure, consideration should be given to the policy measures set out in section 5.

Special control area provisions in town planning schemes may be considered where it is necessary to introduce special controls for buffer areas over and above those provided in the underlying zone or reserve and where the area requiring additional controls can be clearly identified. The Town Planning Amendment Regulations 1999, Model Scheme Text contains standard provisions for special control areas. Special control area provisions can be used to restrict uses that would otherwise be permissible in a zone, or to apply specific performance standards and design measures.

The identification of a buffer area and any associated restriction of uses and development in a planning scheme does not imply any rights to compensation for the restriction of development rights under planning legislation. The Town Planning and Development Act 1928 (as amended) provides that a right to compensation only arises where land is injuriously affected by the making of a scheme. Injurious affection is limited to scheme provisions that prohibit all development except for public purposes and provisions, which prohibit or limit the continuation or extension of the non-conforming use of land. Compensation for the termination or limitation of non-conforming uses is limited to the lot or lots within which the non-conforming use is carried on, or within which the affected building stands, and is only applicable to existing actual uses of buildings - it does not extend to uses that could potentially have been carried out but for the scheme.

When preparing town planning schemes and amendments, local governments should consider the potential for land use conflict between industry and sensitive land uses, identify industry and essential infrastructure which require buffers and:

- limit uses within industrial zones that may have substantial off-site amenity and health impacts and risks that cannot be effectively managed on-site or within the confines of the industrial area;
- encourage the location of uses that may have substantial off-site amenity and health impacts and risks within the core of the industrial zone while encouraging land uses with fewer off-site impacts and risk to be located towards the periphery of the industrial zone;
- taking into account future changes in the off-site impacts of industry, review zonings and permissible uses in the zones adjoining industrial zones or established industry to ensure the land is developed for uses that are compatible with the industrial uses;
- include planning provisions to minimise the effect on the amenity of, and risk to, adjoining sensitive land uses, such as recommended buffer areas or separation distances and physical measures (eg acoustic barriers to reduce noise emissions or landscaping to reduce light spill); and
- provide advice to future landowners and residents of the potential for off-site amenity impacts from nearby industrial uses (eg notification through memorials on property titles or signage).

In determining applications for the subdivision (including strata titling) or development of land for industrial uses and infrastructure, or for sensitive land uses in the vicinity of existing and proposed industrial uses and infrastructure, the WAPC and local governments should give consideration to the policy measures set out in section 5.
Annexure A: Wastewater infrastructure

This annexure is to be read in conjunction with the State industrial buffer statement of planning policy 4.1 ('the policy'). The provisions of this annexure apply to wastewater infrastructure in addition to the provisions of the policy and in the event of any inconsistency the provisions of this annexure will prevail.

1 Importance of public wastewater infrastructure to the state

The management of wastewater from urban areas through a system of essential infrastructure (i.e. wastewater pump stations and water treatment plants) provides significant beneficial outcomes to the environment, supports the sustainable development of communities and provides significant benefits including:

• improving public health and amenity for the community;
• higher forms of treatment resulting in improved effluent quality returned to the environment;
• essential public service of wastewater infrastructure being provided in a sustainable manner;
• more efficient use of land (i.e. urban consolidation) and certainty for the land development industry; and
• improved recycling, re-use and recovery of useful by-products, e.g. biosolids.

2 Obligations of the infrastructure provider and/or operator

Consistent with the policy, the infrastructure provider and/or operator shall adopt high standards of environmental management.

The infrastructure provider shall endeavour to contain emissions on-site. Where the WAPC agrees this is not feasible, the infrastructure provider and/or operator will undertake technical analyses as set out in the policy measures contained in section 5 of the policy.

3 Odour-sensitive land uses

Land uses which are heavily dependent upon a high level of amenity, attract large numbers of people and predominantly operate in the late evening or at night should ideally not be located, or where they exist, intensified within wastewater infrastructure buffer areas. In addition to the uses defined as ‘sensitive land uses’ defined in section 1 of the policy, the following uses and development are considered to be ‘sensitive’ to odour generated by wastewater infrastructure:

• restaurants
• tourist facilities
• cinemas and theatres
• community and cultural centres
• churches and other places of worship
• indoor sporting venues or constructed playing arenas and
• outdoor and bulky goods showrooms.
For land use and developments proposed within the odour buffer (including intensification of existing uses), the responsible authority should take into consideration the potential odour impacts on the users or occupiers of the land or development, and ensure compatibility or endeavour to minimise impacts on the proposed land use from existing or proposed future wastewater infrastructure. To this end, the responsible authority shall have due regard to the following relevant matters:

- the proximity of the proposal to a wastewater treatment plant and major wastewater pump station;
- proposed future expansion of essential wastewater plant and wastewater pump station infrastructure;
- the sensitivity of the proposed use to odour from the wastewater facility;
- odour mitigation measures available and proposed for the use, which will significantly reduce the impact of odour to a standard appropriate for that land use;
- the number of people likely to use or occupy the land or proposed development;
- the potential for the proposed land use to expand and attract additional people;
- the length and frequency of stay of any person on the site;
- the predominant hours of operation of the proposed land use or development;
- the advice and recommendations from the Department of Environment and relevant wastewater provider; and
- any other relevant town planning considerations.

In existing residential zones, there will be a presumption against rezoning to higher residential densities and intensification of development.

4 Referral to relevant wastewater provider

Prior to determining any application located within a buffer area, or considering any planning mechanism including a town planning scheme, amendment to a town planning scheme or planning policy that may affect a wastewater infrastructure buffer, the responsible authority is to consult with relevant wastewater providers.
This draft policy has been released to seek public comment on the information in the draft policy. All aspects of the policy will be re-assessed prior to being finalised.

Every submission received will be acknowledged in writing and will be considered in the review process. All submissions will be treated in the strictest confidence.

When making a submission, it is very helpful to:

• clearly state your opinion and the reasons for your opinion
• if possible, outline possible alternatives or solutions to your area of interest
• if possible, include the section or page number which relates to your area of interest
• provide any additional information to support your comments.

A public submission form is included overleaf for your convenience, which can be posted free of charge. If you prefer to make a comment in an alternative format, please remember to include the relevant details as outlined on the submission form.

The closing date for submissions is Friday 29 October 2004

You can send your submissions free of charge to:

Draft State industrial buffer statement of planning policy 4.1
Western Australian Planning Commission
Albert Facey House
469 Wellington Street
Reply Paid 80014
PERTH  WA  6000

If you would like more information on making a submission, please contact:
Manager environmental planning,
Tel:   (08) 9264 7777
Fax   (08) 9264 7566
email:  corporate@wapc.wa.gov.au

We look forward to receiving your submission.
Public submission form
Draft State industrial buffer statement of planning policy 4.1

1 Name: .................................................................

2 Organisation (if relevant): ........................................

3 Address: ................................................................

4. Interest: .............................................................

(eg local resident, business operator)

I/we would like to make the following comments on the draft State industrial buffer statement of planning policy 4.1 and would like them to be considered in the preparation of the final document

Comments: ..............................................................