Draft State Planning Policy 4.1
State Industrial Buffer (Amended)

Prepared under part 3 of the
Planning and Development Act 2005

by the Western Australian Planning Commission
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July 2009
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1 Citation

This is a state planning policy made under part 3 of the Planning and Development Act 2005. This policy may be cited as State Planning Policy 4.1 State Industrial Buffer Policy. It replaces the earlier Statement of Planning Policy 4.1 State Industrial Buffer Policy gazetted on 5 May 1997.

2 Introduction

Industry and essential infrastructure are critical to the local, regional, state and national economy as they provide goods and services crucial to the social and economic wellbeing of the community. However, some industries generate a range of emissions that cannot be fully contained on-site.

If emissions cannot be contained on-site, there is a need for a buffer to separate the industrial use or the infrastructure from sensitive land uses to ensure that land use conflicts are minimised. Buffers protect existing industry and essential infrastructure from encroachment by incompatible development or sensitive land uses that could restrict current and future operations.

When preparing urban and regional land use plans and strategies it is equally important to protect the health and amenity of the community from unreasonable or adverse impacts of industry and essential infrastructure. Impacts include emissions such as noise, smoke, fumes, dust, odour, vibration, light and risk.

3 Application of the policy

This policy applies statewide, to planning decision-making, and proposals which seek to provide for:

- new industrial areas and uses, and essential infrastructure;
- sensitive land uses in proximity to existing industrial areas and essential infrastructure; and
- the expansion or change in the operations of existing industry and essential infrastructure.

Essential infrastructure is explained in the interpretations section. Wastewater infrastructure is specifically addressed in annexure A.

Road and rail transport noise, the metropolitan freight network, telecommunications infrastructure, high pressure gas pipelines, poultry farms and land use planning in the vicinity of Perth and Jandakot airports are specifically addressed in separate state planning policies.

While the provisions of this policy do not apply retrospectively, it is recommended that, appropriate action is taken to reduce current reciprocal deleterious impacts where sensitive land uses are proposed to be located adjacent to existing infrastructure. This action may involve reducing impact through improved technological solutions, the use of environmental management or waste avoidance and resource recovery plans, and avoiding the encroachment of sensitive land uses.

4 Objectives of the policy

The objectives of the policy are to:

- avoid conflict between industry and/or essential infrastructure and sensitive land uses;
- protect industry and/or essential infrastructure from encroachment by those land uses that would be sensitive to impacts and adversely impact the efficient operations;
- provide for the development of industry and/or the provision of essential infrastructure in a way that maximises amenity, minimises environmental and health impacts and takes account of risk to nearby sensitive land uses; and
- promote compatible uses in areas affected by off-site impacts of industry and/or essential infrastructure.
5  Policy measures

5.1  Land use conflict

New industries will be required to demonstrate if and how they intend to contain emissions on-site. New industry should be located to provide and maintain an appropriate buffer between the proposed industrial uses and sensitive land uses.

Existing industry may acquire land for buffer areas, that may be referred to the Western Australian Planning Commission (WAPC) for endorsement and incorporation into planning schemes and strategies. Where existing industries cannot acquire appropriate buffer areas to mitigate off-site impacts it should be encouraged to relocate to another site which can facilitate growth of the industry while not compromising the amenity of existing or future land uses.

Industrial areas, particularly strategic industrial areas, should contain a core area in which intensive industry is to be located. The core area should be surrounded by a buffer area to ensure there is no unacceptable impact on, or risk to, adjacent development. The core area and the buffer are together considered to be the industrial area and should be zoned accordingly. Control of the location of activities in the core and buffer areas will need to be achieved through strategic planning of the industrial area and the provision of appropriate statutory land use planning controls in a relevant planning instrument(s).

Industries that have the greatest potential for off-site amenity impact and risk will be required to be located well within the core of an industrial area. Industries that have a lesser potential for off-site impact should be located towards the boundary of the industrial area. Compatible land uses, including some commercial enterprises and public open spaces, should be located to the outer edge of the industrial area within the buffer, to minimise the impact of the intensive/core industries on more sensitive land uses.

Siting of sensitive land uses within a buffer area should generally be avoided. Any proposed sensitive land uses within buffer areas should be thoroughly investigated to avoid future health or amenity conflict or future constraint on the industries protected by the buffer.

5.2  Definition of buffer areas

Proposals that satisfy recommended buffer distances in Guidance for the Assessment of Environmental Factors No 3 Separation distances between industrial and sensitive land uses (Environmental Protection Authority, June 2005) are deemed to comply with the objectives of this policy and shall form the basis of planning controls adopted by the WAPC as a basis for local planning.

Proposals to introduce scheme controls should be consistent with the Environmental Protection Authority (EPA) guidance statement 3 and supported by the operating licence issued by the EPA for the industry which is the subject of the buffer.

Once the proposed buffer area has been identified and is considered to have met the objectives of this policy, the WAPC and local government will initiate amendments to strategic plans, policies, guidance statements and local planning strategies and schemes.

5.3  Technical analysis

When a structure plan or scheme amendment is prepared, the nature of future industries and associated emissions are often unknown. This limits the ability to determine buffer distances for specific industries. If the proposed location of industries and any future plans are known at this stage in the planning process, then EPA guidance statement 3 applies.

In the absence of this information, proposals are required to be assessed individually.
Technical analysis is required if a proponent seeks to reduce the buffer from those specified in EPA guidance statement 3 and in circumstances where industry seeks to expand their operations or were cumulative impacts may occur.

Industries or operations that pose potential risk to amenity or health, and are not addressed in EPA guidance statement 3 may also require technical analysis.

5.3.1 Requirements of the technical analysis

The technical analysis undertaken by the proponent shall include:

- identification of the nature of the off-site impacts which may adversely affect more sensitive land uses (eg noise, smoke, dust, odour, vibration and light) or create risks;
- evaluation of the predicted or measured emissions and risk levels against accepted criteria (refer 5.3.2);
- assessment of measures required to meet licence conditions and best practice approaches that may feasibly be used to ameliorate off-site impacts and risk associated with the siting and operation of the proposed industry;
- options for the re-use of waste or by-products in existing operations or other suitably located industrial processes;
- consideration of the cumulative impact of the proposal with existing or planned impact from the entire site and/or other industrial/essential infrastructure uses in the locality;
- proposed measures and controls to ensure that off-site impacts and risks are ameliorated and the proposal will meet the criteria/standards prescribed at 5.3.2 (this may require modification of the proposal, provision of an adequate buffer, or the implementation of physical measures and/or land use/development planning controls associated with the proposal and/or buffer area);
- identification of land uses that may be compatible in the buffer area;
- an ongoing monitoring program and five yearly review regime, that assesses the adequacy of the buffer under normal operating conditions or reviews the buffer when changes in operating conditions are proposed which may impact the buffer area; and
- the consequences of the encroachment on existing operations and liability of the industry.

5.3.2 Applicable criteria

These criteria are based on existing guidelines and the operational application. The criteria may be reviewed and/or updated as required. Any proposed change to a buffer or land use in a buffer will need to demonstrate through technical analysis that the following standards or criteria have been met to the satisfaction of the EPA or Department of Environment and Conservation (DEC):

**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* (EPA, March 2002).

**Noise** – Environmental Protection Noise Regulations 1997.


**Light spill** – *Control of the obtrusive effects of outdoor lighting* (Australian Standard 4282-1997).

**Dust** – Environmental Protection (Kwinana) (Atmospheric Wastes) Amendment Regulations 1999.
Air quality – *National Environment Protection Measure for Ambient Air Quality* (NEPC, 1998) for particles (as PM₁₀), ozone, sulphur dioxide, nitrogen dioxide, carbon monoxide and lead and the draft variation to the NEPM for PM₂.₅.


Cleaner production and resource recovery – *Environmental Improvement Plans - Western Australian model* (DEC, August 2004).

5.3.3 Consultation

In undertaking the technical analysis, consultation shall occur with the affected landowners/occupiers, local government and relevant environment, health and safety agencies. The consultation process and results shall be included as an appendix to the report.

5.3.4 Endorsement of the technical analysis

As part of the process which applies to any proposal under the terms of the *Environmental Protection Act* 1986 (section 48), the planning authority shall refer the technical analysis with the proposal to the DEC/EPA for assessment. Following assessment that a proposal is soundly based and may be implemented, the proposal may be progressed by the WAPC and/or responsible planning authority for incorporation into a relevant statutory planning instrument(s).

Once incorporated into a local planning scheme and strategy there shall be no variation permitted to the buffer unless it has been modified following justification by an additional technical analysis assessed by the DEC/EPA and subsequent modification to the relevant statutory planning instrument(s), where applicable.

6 Implementation

6.1 Strategic plans

Local and regional planning strategies and structure plans need to identify buffer areas around major existing or proposed industrial areas and infrastructure. This includes any uses that have the potential for unacceptable off-site amenity and health impact or risk.

Where the technical work necessary to define a buffer for an industrial site or element of infrastructure has not yet been completed, the general location of any sites and the surrounding areas shall be identified in strategic plans together with mechanisms to ensure that appropriate investigations are completed prior to permitting the rezoning or development of the area. Comprehensive planning of the locality surrounding these sites should also consider the co-location of compatible and synergistic land uses to achieve a mutually beneficial mixture of uses within the buffer.

Planning strategies must identify the location and land requirements of key infrastructure and utilities necessary to service proposed and existing development. These strategies should identify buffers for the infrastructure and with respect to industrial areas consider establishing more intensive core areas in industrial zones so as to coalesce and nest individual complementary buffers. The strategy should include mechanisms to ensure that only appropriate compatible industrial or other uses such as service infrastructure are located in the buffer of the industrial area.

Strategies should also be proposed to facilitate appropriate land use transition and staging of development to progressively implement buffer management. These may include flexible land use or transitional zoning mechanisms.
6.2 Local planning strategies, schemes and amendments

When preparing local planning strategies, local planning schemes and amendments, consideration shall be given to:

i) managing and minimising the potential for land use conflict between industry and/or essential infrastructure and sensitive land uses;

ii) timely and accurate identification of industry and essential infrastructure which require buffers; and

iii) ensuring that proposals which in the opinion of the WAPC:

- restrict the operation of important activities in industrial zones,
- present substantial and deleterious off-site impact on the amenity, health, safety and security of the industrial area,
- inhibit the location of industries and activities with less off-site impact and risk towards the periphery of the industrial zone,
- limit the ability of the protected industry or infrastructure to achieve the ultimate planned capacity and operating efficiency;

should not be supported.

iv) incorporating proposals which:

- 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 (e.g., acoustic barriers to reduce noise emissions or landscaping to reduce light spill);
- consider future changes in the off-site impact of existing industry and/or essential infrastructure, and review zonings and permissible uses adjoining industrial zones or existing industry to ensure the land is developed in a compatible manner; and
- provide mechanisms to ensure advice is provided to future landowners and residents informing them of the potential for off-site impact on amenity from nearby industrial uses or essential infrastructure (e.g., notification through memorials on property titles or signage).

6.3 Statutory mechanisms

Local planning schemes are the preferred basis for identifying and managing buffers, the use and development. Appropriate statutory scheme mechanisms to implement the measures in section 5 include:

- special control area provisions in local planning schemes which 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 technically justified and clearly identified;
- zoning and text provisions which prohibit or restrict development (such as a restricted use zone) or certain types of development that is incompatible with certain levels of emissions or risk;
- zoning and text provisions which restrict, control or manage the levels of impact, emission or risk generated by a development;
- text provisions which specify separation distances or performance standards to be met by industry, infrastructure and other uses and/or which specify procedures to be followed, for example, relevant information to be taken into account by council when making decisions;
- definitions contained in schemes that are associated with a known level of performance i.e., the performance-based definitions for light industry, service industry and uses associated with technology parks assume that significant impact can and will be contained in the boundaries of the site;
- structure plans prepared pursuant to a local planning scheme and endorsed by the local government and the WAPC;
• local planning policies prepared pursuant to a local planning scheme and endorsed by the local government and WAPC;
• the Model Scheme Text establishes the framework in local schemes with which to address the protection of buffers with planning controls, which apply to both scientific standardised and site-specific buffers.

6.4 Determining planning proposals in buffer areas
In considering development or planning proposals in a buffer area, supported by an endorsed technical analysis, regard should be given to:
• the proximity to the emission source and estimated level of impact and/or risk on the use or development;
• the sensitivity of the proposed use or development to off-site emissions and risk;
• the mitigation measures proposed to be undertaken to reduce the level of off-site emissions or risk, including proposed cleaner production or resource recovery techniques;
• the level of understanding demonstrated by existing landowners as to the potential likely impact (including an acceptance of likely reduced amenity) and/or risk, and the mechanisms proposed to ensure that prospective purchasers or future landowners will be made aware of the likelihood of reduced amenity or potential risk from those impacts;
• the known potential for any increase or reduction in off-site emissions or risk impacts in the future;
• the potential for the proposal to constrain the operation of existing or future industry or infrastructure protected by the buffer;
• applicable state, regional or local planning statutes and polices;
• advice received from the EPA, DEC, Department of Housing, Department of Mines and Petroleum, Department of State Development and any other relevant agencies;
• local government views or submissions made during any public consultation period; and
• any other relevant town planning consideration.

The proponent should provide sufficient information with their proposal to address these matters, in addition to those contained in section 5.3 where applicable, so as to assist the decision maker in its assessment and consideration of the proposal.

7 Interpretations
The definitions contained in the policy complement those contained in the Model Scheme Text. The following additional definitions apply within this policy:
**buffer area** is the area in which sensitive land uses are limited.
**buffer distance** is the distance from the buffer boundary to the source of emissions.
**buffer – scientific site-specific** is the area identified for a buffer as determined by knowledge directly associated with a site-specific development proposal, the local climate and surrounding activities.
**buffer – scientific standardised** is the standardised area identified for a buffer as determined by knowledge directly associated with a specific type of industry or operation and considers the local climate and surrounding activities.
**compatible land use** is a use that when located in a buffer will tolerate exposure to off-site emissions without impairment to its own operation.
**essential infrastructure** includes infrastructure that has the potential to generate off-site emissions or risk and includes ports, major freight terminals, wastewater treatment plants, water treatment plants, power generation facilities, power distribution terminals, electro-magnetic radiation impacts and substations, waste disposal sites and airports.

**sensitive land uses** include, but are not limited to:

- residential development
- hotels, motels, hostels and caravan parks
- hospitals and nursing homes
- schools and other educational establishments
- childcare facilities
- shopping centres
- sporting facilities
- restaurants
- tourist facilities
- cinemas and theatres
- community and cultural centres
- churches and other places of worship
- indoor sporting venues or constructed playing arenas
- outdoor and bulky goods showrooms and
- some public buildings.

**industry** includes general, extractive, and light industrial areas as defined in the Model Scheme Text, including premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles materials or substances and premises incidental to industrial operations.

**resource recovery** considers resource management options as hierarchy that avoids unnecessary resource consumption and waste; the recovery of resources including reuse, reprocessing, recycling and energy recovery; and the safe management and disposal of waste.
Annexure A: Wastewater infrastructure

The annexure is to be read in conjunction with State Planning Policy 4.1 State Industrial Buffer. The provisions of the 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 Obligations of the infrastructure provider and/or operator

Consistent with the policy, the infrastructure provider and/or operator shall manage, operate and maintain the wastewater treatment plant in accordance with the operating licence issued by the EPA and any conditions of development approval that may apply and with regard to improvement towards best-practice.

The infrastructure provider shall endeavour to contain all emissions on-site. These matters are addressed in the operation licence for the wastewater treatment plant and are enforced to the satisfaction of the Minister for the Environment on advice of the EPA pursuant to the Environmental Protection Act.

Where the EPA agrees, that emissions cannot be contained on-site and it is not feasible to achieve this standard, or where expansion of a facility is proposed, the infrastructure provider and/or operator will provide a generic buffer in accordance with EPA guidance statement 3 or a buffer - scientific prepared to the satisfaction of the EPA.

2 Odour–sensitive land uses

Odour sensitive land uses, as identified in section 7 of the policy which:

- are heavily dependent on a high level of environmental and/or public amenity;
- attract large numbers of people; and
- predominantly operate in the late evening or at night,
should not be located, or where they already existing not be expanded or intensified, in wastewater treatment plant and related buffer areas.

For land use and development proposed in the odour buffer of wastewater pump stations or wastewater treatment plants (including intensification of existing uses), the responsible authority should take into consideration the potential odour impact on the users or occupiers of the land or development, and any consequences on the future operation of the wastewater treatment plant. This is to ensure compatibility of land use and to minimise the impact on existing or proposed future wastewater pump stations or wastewater treatment plants.

To this end, the responsible authority shall give due regard to the following matters:

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

In existing residential zones in the wastewater infrastructure buffer, there will be a general presumption against rezoning to higher residential densities or permitting subdivision for intensification of development.

3 Referral to relevant wastewater service provider

Prior to determining any application located in a buffer area, or considering any planning mechanism to be introduced into a local planning scheme, amendment to a local planning scheme or planning policy affecting a wastewater infrastructure buffer, the responsible authority is to consult with the relevant wastewater service provider.
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Name:

Organisation (if relevant):

Address:

Interest:
(eg business operator, local government, industry body)

I/we would like to make the following comments on the Draft State Planning Policy 4.1 State Industrial Buffer Policy and would like them to be considered in the preparation of the final policy.

Comments:

Submissions close Monday 14 September 2009 and should be sent to:
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