

October 2015



Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

Due to meeting schedules, this Submission has not yet been endorsed by MWAC, however it will be put before Council at the earliest opportunity (Wednesday, 16 December). The Department will be informed of any changes to this Submission following consideration by MWAC.

1. Introduction

Local Government welcomes the opportunity to comment on the draft Licence Documentation. Local Government is commenting on this documentation in several capacities, as a community representative seeking to ensure the environment is protected, and as an operator of prescribed premises to whom the Licence documents will apply.

Local Government supports the Department in its efforts to establish a licensing framework for approvals granted under Part V of the *Environmental Protection Act 1986*, as part of its regulatory reform activities.

2. Consultation Paper

The Association commends the Department on the clear linkages established between the *Guidance Statement: Regulatory Principles* and the Consultation Paper.

Application of the Licence Documentation

The Association understands the need to update the Application Form, during the consultation period but does request that all feedback is documented, and a rationale for any change provided to all stakeholders (as per the usual consultation process).

As indicated, the Association welcomes the range of reforms the Department is undertaking. The effective implementation of these reforms is likely to be a more difficult process. The limited success of REFIRE is a recent example where the Department attempted to address various process issues. The Association appreciates the Departments activities to date, in starting to imbed new approaches and looks forward to further communication on how these processes are operating in practice.

The Association looks forward to more information on how the transition from existing to new licences will be managed. Making available the schedule and plans for the coordinated transition will assist the sector in planning and enable any implementation concerns to be addressed quickly.

Recommendation: That all feedback received on the Application Form is documented, and a rationale for any change provided to all stakeholders (as per the usual consultation process).

Recommendation: Further information is provided on how the transition to new licences will be managed.

3. Application Form and Guideline for Applications

The Association supports the Department's efforts to streamline both the works approval and licence application process. The Application Form will be a helpful in providing a clear application process. The Association notes a difference between the Application Form and the Guideline to the Form relating to clearing permits. The Association understands that the Department is updating the Application Form in 'real time' to resolve issues arising during the consultation period.

Recommendation: That the Guideline supporting the Application Form is updated at the same time as the Application Form.

Further clarity is requested on the need to '*specify all activities that will be undertaken on the premises that constitute activities within the categories of prescribed premises under Schedule 1 to the EP Regulations*' as part of the application process. Currently, the wording of the Consultation Paper and the Application Form gives the impression that all activities have to be detailed as part of the application process as opposed to only those activities occurring under licence categories.

Recommendation: Provide further clarity on which activities need to be detailed as part of the application process.

Part 1. Applicant details

The Association supports the efforts of the Department to increase the level of transparency provided through the application process and strongly recommends the publication of all information provided.

Part 2 Premises, Part 3 Proposed activities

Refer to above comments on clearing permits. It would be useful for further explanatory material to be provided on the proposal referral pathway on which activities need to be documented. A clearer linkage between Part 3 and Part 6 for emission discharge points may also be useful for applicants.

Part 4. Other approvals

The inclusion of this section in the Application Form is supported. It would be useful for clearly articulated instructions to be included in the Guideline. This includes providing information on the types of organizations that grant planning approval, and examples of the types of 'other necessary statutory approvals' that the Department considers to be relevant. The Association suggests this could include a prompt to obtain planning/building approvals.

Recommendation: Include examples of other statutory approvals that may be required.

Part 5. Fit and competent operator

The Association supports the intent of this section to ensure that the competency of the operator of a facility and their track record is included in the risks associated with a site. Feedback from Local Government relating to this section was supportive, but some modifications were suggested:

- Proponents provide information on the significance and substance of any breach. Some breaches to conditions are more serious than others, particularly given the diversity of licence conditions.
- That a time limit (e.g. 5 years) be put in place for breaches to conditions. For example, a 20 year old facility could have a number of insignificant breaches that would all need to be documented.
- Applicants should identify convictions, infringements, breaches of conditions, and suspension and/or cancellation of a works approval or licence for all Australian jurisdictions.

Including this section in the Application form also raises the expectation that the Department will check on the information provided against their own records, and where necessary undertake additional investigation in other jurisdictions.

Recommendation: That the Department considers requesting information on the significance and substance of any breach, conviction or infringement over a specified period of time across all Australian jurisdictions.

Recommendation: The Department documents what investigation will occur to determine the accuracy of the information provided by proponents in this section.

Part 6. Public health and environmental risks

Clarification is requested on the way that waste generated by a facility but not necessarily stored on site is assessed by the Department. It would be prudent to only grant approval to those operators that have a demonstrated outlet/solution for any byproduct produced.

It is suggested that an additional column be added to Attachment 6 to include details on the monitoring and measurements that will be carried out. This would then align more closely with the licence template.

Part 7. Siting and location

As the Association mentions in its Submission on Separation Distances, further information is requested on what the Department considers 'sensitive receptors' to be. The Association considers that siting considerations are only one factor in assessing the risks associated with a facility.

Part 8. Assessment Framework

The Association looks forward to the opportunity to comment on the Assessment Framework which will inform this section of the Application Form. The Association anticipates the Assessment Framework will provide detail on how to complete this section as well as the approaches that will be deemed acceptable by the Department.

Part 9. Submission of proposed fee calculation

In streamlining both processes for works approval and licence applications, Local Governments have questioned if there is still a requirement to pay two sets of fees.

4. Licence Template and Conditions Library

In establishing linkages between the new risk assessment framework and licences, Local Government requests that there is a clear delineation between outcomes based conditions and management/process based conditions.

Some confusion has arisen from the wording used in the Consultation Paper and Licence Template on the different types of conditions. For example, in the Consultation Paper the impression is given that the review of the '*records, information and reporting conditions*' has resulted in the removal of periodic reporting requirements for some operators. However, in the 'Reports' section of the Licence Template, there are requirements for both periodic reports and requested information. The Association suggests rewording this section of the Consultation Paper to clarify if the Department will only use one, or both conditions in licences.

There are differences between the wording used for conditions in the Conditions Library and Licence Template. For example, the '*Licensee must monitor the emissions specified...*' as opposed to '*the Licensee must monitor the parameter or substance specified...*' It would be useful for consistency to be maintained across the two resources.

To ensure applicants are aware of avenues of appeal, it is suggested that information be included in the Guide to the Application which outlines this process. This would be particularly useful, whilst the Department is adjusting to new operational processes as part of its regulatory reforms.

Recommendation: That the Department maintains consistency of wording, and makes a clear distinction between outcomes based conditions and management/process based conditions in the Conditions Library and Licence Template.

Recommendation: That the Department includes information on appeals as part of the Guidance Documentation.

5. Conclusion

Local Government is supportive of the Department's activities to establish the Licence Documentation. Local Government views the published materials as a positive means of clarifying the works approval and licence application process and looks forward to continuing to work with the Department as it implements its regulatory reforms.