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## About EHA (WA)

Environmental Health Australia (Western Australia) Incorporated supports Members and the Environmental Health Profession in Western Australia.

Environmental Health Australia (EHA) is the premier environmental health professional organisation in Australia which advocates regarding environmental health issues and represents the professional interests of all environmental health practitioners. EHA is committed to the professional development and status of its members and the enhancement of environmental health standards and services to the community through advocacy, promotion, education and leadership.

The professional organisation has been in existence since 1936 and has undergone several names changes over time to reflect the changing nature of the organisation and its membership.

Vic Andrich  
**President**

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## Submission

### **NEAR ENOUGH IS NOT GOOD ENOUGH – An initial report on the protection of crowded places in Western Australia**

#### **Community Development and Justice Standing Committee – Legislative Assembly Parliament of Western Australia**

Environmental Health Australia (WA) believes it is critical that local government are included in all deliberations related to this matter and that Environmental Health Officers (EHO) are the most experienced and qualified to oversee those arrangements. The breadth of actions required across Western Australia means that logistically, an adequate response to cover most situations would not be possible without utilising the existing administrative arrangements provided by local government. Within local governments, Environmental Health Officers currently deal with public events and are ideally placed to incorporate responsibility of overseeing anti-terrorism measures at such events.

The following 'Environmental Health Model' has been developed in consultation with the profession and provides an effective means to achieve the intent of this inquiry.

See below an overview of the situation as it stands in early November 2018, and additional further comments and observations.

This submission was developed by Mr Nick Jones on behalf of both, Environmental Health Australia (WA) and the City of Cockburn. Additional comment has been provided on 8 questions that are particularly relevant to Local Government.

## Environmental Health Model

### Overview

The Commonwealth Government launched the National Strategy in 2017 however there was little engagement with Local Government.

Guided by the Strategy, Western Australia Police (WAPol) commenced holding Crowded Places Forums (CPF) and invited events officers from Local Government. WAPol were unaware that the approving officer for all events is the Principle Environmental Health Officer (PEHO's) under the Public Buildings Regulations so PEHO's were not initially invited to the CPF's. This has now been rectified and Environmental Health Officers (EHO's) will now attend CPF's. Similarly the Local Government officers responsible for Emergency Management were also not included in the initial discussions around this issue but this has also been rectified and through the Western Australian Local Government Association (WALGA) there is now a conversation around the role of Emergency Management and the risk of Terrorism.

During 2018 it became clear to PEHO's that there is some obligation on behalf of Local Government to be guided by the National Strategy. Initially there was a call for leadership and advice from WAPol as the Hazard Manager responsible for Prevention and Preparedness for these events under WESTPLAN Terrorism, but there is now an understanding that the Strategy is a guidance document for a large range of stakeholders.

**A significant concern is that there appears to be no clear legal obligation for any agency to assume or adopt the lead status. Nor is there any legislation that gives any agency the power to require Local Government or the owner/operator of a crowded place to implement any protective security measures or cancel or alter any event.**

In 2018 there has been a focus upon the requirement for Risk Management Plans for events with crowds greater than 1000 as required by the Public Building Regulations. This focus was triggered by the working group of Local Government EHO's and officers from the Department of Health tasked with reviewing the existing Public Buildings Regulations and considering developing new regulations to cover Events.

The numbers of events in Western Australia have increased significantly over the past 10 years and most of them are organised by community and charitable groups. Local Governments needed to consider how to apply the Strategy to a very large number of events most of which very obviously did not consider the threat of terrorism.

The Strategy was being implemented inconsistently and only a small number of Local Governments were requiring the organisers of all events to consider the threat of terrorism. The issue was discussed at the Metropolitan Environmental Health Managers Group (MEHMG) meeting held 5 September 2018 when the following interim position was adopted.

*For those of you who attended the MEHMG meeting on Wednesday 5 September this refers to the detailed discussion about Local Government's response to the threat of terrorist attacks on events.*

*At the meeting each representative outlined their current approach to the risk of terrorist attacks at events including Hostile Vehicle Management (HVM), backpack bombs, weapons and the like. From the discussion I conclude that*

*most Councils are adopting a common sense approach and not requiring applicants to provide evidence that they have considered these threats for their events, or if they have considered terrorism then they don't intend to take any action to prevent or mitigate for this risk. Importantly the PEHO is accepting that there is no need for any action to be taken unless an event is considered to be high risk. Most Councils do not include Terrorism and/or HVM in their Event Application Forms.*

*The most appropriate response for all Councils is for the relevant EHO to carry out a self-assessment tool for all events in your area. You will see from the attached tool that a very small number of events will trigger any action. Those that may trigger action have bigger crowds or numbers of participants or are at high profile venues such as Kings Park or a military/police connection such as Anzac Day events. Smaller events such as suburban festivals, fairs, carols by candle light, farmers markets, community concerts and the like do not justify any response unless otherwise advised by WA Police. This means that PEHO's can be comfortable in the knowledge that the industry standard response for the vast majority of events is to not consider the risk of a terrorist attack. There is no need for an increased budget to address this risk in most Councils and there is no need for event organisers, community associations, volunteers and the like to consider terrorist threats at their event or sending their members for training on this subject. There is no need for these people to consider this risk and raise concerns and anxiety in the community unnecessarily. Whatever measures you were using to keep people and vehicles apart, or licenced crowd controllers at events with alcohol/drugs and potential aggressive/crazy people are appropriate and should be continued.*

*However there is a pressing need for a relationship between MEHMG and the Counter Terrorist team in WA Police to develop a protocol for dealing with this issue into the future, and there is a need for PEHO's and EHO's to receive training on appropriate action to be taken at high risk events such as Anzac Day services. There is also a need for Council's to consider the risk of terrorist attacks at other crowded places that are not events such as many places in the City of Perth and Fremantle. MEHMG have created a working group to deal with this and they will hopefully meet with Police in the coming weeks and I will keep you informed.*

*I recommend that you all prepare a short confidential briefing note for the endorsement of your manager, noting this is an interim position until we have developed something more detailed with WA Police and possibly DoH and WALGA.*

*Nick Jones*

*Chairperson MEHMG*

*MEHMG comprises all 31 Local Governments in the Perth metropolitan area and the Cities of Bunbury and Busselton.*

WALGA subsequently convened a high level meeting of various stakeholders where it was agreed that the issue would be explored from a State Emergency Management perspective and this has commenced. It was also agreed that DoH would issue a bulletin advice to Local Government about the Strategy, but this has been of limited value to Local Government.

MEHMG will be meeting with WAPol on 5 December 2018 to clarify the role of WAPol in relation to the Strategy.

Following on from this it is hoped that a protocol will be developed whereby there is an appropriately qualified officer at every Local Government who is aware of the strategy and able to implement it at the Local Government level. The relevant officers will need to be trained within 6 months and connected with WAPol for the purpose of information sharing. The officers will need to know what to do if/when the Terrorism Threat Level increases in future. Environmental Health Officers are the most appropriate officers to undertake this role.

The relevant officer will be the person who decides whether an event or Crowded Place requires protective security measures. Using the Self-Assessment Tool it very quickly becomes clear that local knowledge of each Local Government area is needed before key crowded places can be recognised/ identified.

Local Governments option of employing external experts smacks of the Y2K syndrome where significant funds were wasted on experts who fed on anxiety and provided ineffective plans. The best option is based on Terrorism being a long term problem that requires a permanent officer at each Council who is able to do most of the necessary work and coordinate the work of experts where this is necessary such as preparation of HVM Plans for large high risk events.

The appropriate first contact officer will be the Principle Environmental Health Officer (PEHO) and the team of EHO's for the following reasons:-

1. The PEHO already enforces compliance with and issues approvals under the Public Building Regulations for Buildings and Public Events.
2. With the development of new Events Regulations, there is an opportunity for Terrorist threats and protective security measures to be incorporated into those Regulations. Note: There already exists a legal requirement for every event and Public Building with more than 1000 people to have an approved Risk Management Plan. The authority to require the operator of a building or event to implement protective security measures already exists.
3. Terrorist threats will most likely develop and adapt and may include the use of toxins, poisons, biohazards and the like. EHO's are degree qualified science based professionals who are trained to deal with pandemics, food poisoning and a range of scenarios that might threaten public health.
4. EHO's are trained in crowd dynamics and safety and would easily absorb further training around Terrorist threats and protective security measures and relevant standards.
5. EHO's are key multi skilled Local Government officers currently numbering about 400 across WA at about 1 per every 10,000 population.
6. A large number of properly trained EHO's would be able to advise and train volunteers and members of the community to be prepared and increase resilience without causing alarm in the community. Note this is not considered to be necessary in the foreseeable future.
7. If WAPol needed to contact a PEHO (or Acting PEHO) at almost any Local Government in WA this would typically be implemented without delay.
8. EHO's at each Local Government would be familiar with all of the key venues and would be able to recognise and identify key crowded places and importantly identify sites/events when no protective security measures are necessary.

9. EHO's meet regularly and regularly share information so that a consistent approach across WA would be achievable.
10. EHO's have powers of entry to premises and to gather evidence and take samples in their role as compliance officers.
11. There is no other officer in Local Government that could currently meet these criteria meaning that the only other option would be for Local Government to create a completely new Terrorism Officer position. This option would be significantly more expensive and unrealistic and certainly unjustified given the current terrorism threat level.

Once the Local Government officer is designated there is a need for a protocol to be developed between this group of officers and WAPol. In addition there is also a need for a specialist subgroup to be created of representatives from Local Governments which commonly host very large high risk events, WAPol, Department of Health and other key stakeholders such as Main Roads WA. This group would consider unique and substantial protective security measures at very large high risk events with the need for potentially expensive HVM plans and barriers rated to stop trucks.

#### **Draft protocol between Local Government and WAPol**

1. This protocol will be updated when the national terrorist threat level changes
2. A Local Government and WAPol working group on Crowded Places strategy and guidance including HVM and criteria to trigger protective security measures will be formed and at least one meeting will be held every 6 months
3. The relevant contact person for HVM at each Local Government is Principle Environmental Health Officer (PEHO)
4. The relevant contact persons for HVM at WAPol is Protective Security Office
5. In view of the national current terrorist threat level (probable) Terrorism will only be considered at events when the Principle EHO determines it is necessary in which case the LG will work with the event organiser
6. Where specific intelligence indicates a localised increased threat, then WAPol will directly contact and liaise with the relevant Local Government PEHO
7. Where a Local Government PEHO considers that an event may represent a risk of terrorist threat including HVM they should consult WAPol via their local events branch
8. Where HVM measures are deemed to be necessary, the relevant guidance is (insert documents)
9. Where protective security measures to deter Terrorist threats are deemed necessary, the relevant guidance is in supplementary guidelines published by ANZCTC
10. Local Governments wishing to consider HVM in crowded places other than events should consult WAPol for advice over the next 12 months, noting that more complex places/venues are likely to need expert advice
11. Each Local Government will ensure that EHO's and other officers as necessary are aware of and trained in the Crowded Places strategy and guidance within 6 months and as it develops into the future

## **Response to specific request for further comment**

### **Comment 9**

This appears to relate to the very large high risk events which constitute very small percentage of the total number of events held in WA. There is no doubt that these event need special arrangements outside of the system established to capture other events.

It is recommended that once a large high risk event is proposed the Local Government would liaise with WAPol and a scoping meeting including key stakeholders (including WAPol, LGA, MRWA, Event organiser, DOH) to determine necessary protective security measures.

Using the current and future Public Buildings/Event Regulations the Local government has the power to require any reasonable measures. In some cases the cost of the security measures is significant and includes the cost of WAPol and other State Government resources such as MRWA and this is a case by case scenario. Many large high risk events are repeat events so the second and subsequent events would be much simpler than the first one.

The discussion around Local Emergency Management Committees (LEMC) is somewhat misguided for the approval and compliance of events. LEMC's are useful forums but they don't do the work necessary to assess and approve events of any scale, nor have the legal ability to do so as defined by the Emergency Management Act 2005.

### **Comment 10**

The crowd number is one of many criteria used to determine whether protective security measures are triggered. The best option is for PEHO's and WAPol to have an agreed protocol on this issue because it needs to be adaptable depending upon specific threats. In most cases crowds smaller than 5000 would not trigger action but as long as the criteria is adopted consistently across WA then public safety would be adequately addressed.

### **Comment 11**

Knowledge of Counter Terrorism planning and measures should be carefully controlled. The establishment of a Local Government and WAPol working group and a network of key expert officers in Local Government and other agencies with direct communication with WAPolice will ensure that important information is shared only with those who need access to it.

### **Comment 15**

Currently only those venues and LGA's that host major high risk events are requiring funds to be allocated to protective security measures. Most likely the most expensive measures involved HVM and traffic management plans.

It is appropriate for high level security measures including bag checks and metal detectors at Optus Stadium and possibly the Perth Arena but there is little to no security at WAFL grounds and certainly non at local sports events including soccer

and cricket and rugby. Without external funding, increased security measures at most venues and events are unlikely to be actioned.

## **Comment 16**

Qualified security consultants should be necessary for major high risk venues and events. Once proper training has been provided to EHO's then Local Government would have the capacity to recognise venues and events that trigger protective security measures. Alternatively, WAPol periodically advises the PEHO on potential threat relevant intelligence so that the PEHO is able to inform event organisers and incorporate measures into relevant plans.

The EHO would identify those venues and events and using the powers in the Public Buildings and Events Regulations, would require plans and expert consultants as necessary. Very large high risk events would trigger a higher level assessment as mentioned in 9 above but ultimately there must be the power for the LGA to require appropriate protective security measures otherwise an event will not be approved and will not be permitted to take place. Note the current legislation allows the local government to close Public Buildings and Events and to prosecute a person for advertising an event that has been deemed unapproved (see extract below).

### **179. Inspection and control of public buildings**

*(1) For the purposes of ascertaining whether any of the provisions of this Part or any regulation made under this Part has been contravened or is not being complied with an authorised person may at any time enter any public building.*

*(2) An authorised person may direct a person to remove any obstruction from —*

*(a) any exit, entrance, gangway, passageway or aisle of a public building;*

*(b) any road, thoroughfare, lane, right of way or land abutting on an exit or entrance of a public building.*

*(3) If it appears to an authorised person that —*

*(aa) a person has opened or is using a public building in respect of which no valid certificate of approval has been issued; or*

*(bb) the number of persons in a public building exceeds the number specified in the relevant certificate of approval; or*

*(cc) there are reasonable grounds to believe that a public building is going to be used to accommodate a number of persons in excess of the number specified in the relevant certificate of approval; or*

*(dd) whether or not a valid certificate of approval is issued in respect of a public building, the public building is unsafe or is unsuitable for the use to which it is being put, or is about to be put,*

*then the authorised person may do any one or more of the following —*

*(a) close, or cause the closing of, the doors of the public building;*

*(b) exclude any person or cause any person to be excluded from entering the public building;*

*(c) direct any person to leave the public building;*

*(d) direct the occupier, owner or person in charge of the public building to comply with one or both of the following requirements —*

*(i) to close the public building;*

*(ii) to refuse to allow any person to enter or remain in the public building.*

*(4) A direction under subsection (2) or subsection (3)(c) or (d) may be given orally or in writing and if given orally shall be reduced to writing as soon as is practicable.*

*(4a) A direction given under subsection (3)(d)(i) to close a public building remains in force until it is withdrawn by the written direction of an authorised person given to the occupier, owner or person in charge of the public building.*

*(5) A person who —*

*(a) hinders or obstructs an authorised person from entering a public building; or*

*(b) enters a public building that has been closed under subsection (3)(a); or*

*(c) has been excluded from a public building under subsection (3)(b) and who enters the public building; or*

*(d) refuses or fails to comply with a direction given under subsection (2) or subsection (3)(c) or (d); or*

*(e) publishes or disseminates material stating that an assembly is to be held, or inviting a person or persons to an assembly, in a public building contrary to action taken by an authorised person under subsection (3) with respect to the proposed assembly,*

*commits an offence.*

## **Comment 22**

As mentioned above there is a working group coordinated by WA Department of Health to develop new Events Regulations and protective security measures in Crowded Places will be included either specifically in the Regulations or in the requirement for a Risk Management Plan.

## **Comment 23**

This has been addressed above. The issue that requires attention is the need for a protocol for informing and training of EHO's so that the requirements are appropriate and required consistently across Local Government areas.

## **Comment 29**

Local Government does not have funds allocated for the purpose of assessing and/or protecting its crowded places. In the short term say within 6 months it is proposed that after debate between EHO's and WAPol there will be clarification as to which venues, sites, events and crowded places justify protective security measures.

Following that there will be a need for some venues and sites to be assessed and protected and some will require the assistance and advise of a specialist expert. It is predicted that the upgrade works will be completed based upon priority determined through the debate as mentioned above. Where works are expensive and relate to iconic tourist sites that the provision of a fund to assist these Local Governments should be considered.



## **Additional comments/observations/questions**

Local Government and many operators of crowded places are faced with two challenges, to adequately prepare for a terrorist attack to protect the public, and to ensure that the protective security measures would be deemed sufficient.

As a community we need to decide on a response that takes the threat of terrorism seriously without creating unnecessary and unwelcome fear and anxiety in the community and without causing costs that restrict the scale and number of event.

This is at a time in Perth when there is unprecedented growth and the number of events, including pop up food truck meets, markets and Healthy walks/runs/cycles/swims and the like. The recent attack in Bourke St, Melbourne resulted in some interesting media articles. Melbourne City Council appears to have a plan to deal with the threat of terrorism. Similar plans should be developed for all major Cities in Australia but there does not appear to be any coordination of effort and it is unclear if staff from the major City Councils are collaborating and sharing information. Are we learning from actions being implemented by Local Governments in major international Cities like London and Paris?

The title of the initial report implies that more needs to be done to protect crowded places from terrorism. The release of the Counter Terrorism Strategy in 2017 triggered for the first time in Local Government and across the community a realisation that the Commonwealth Government has placed the bulk of the responsibility for protective security measures on the owners and operations of crowded places.

This responsibility is not enshrined in any legal obligation and the guidance documents are vague and under development. The training provided by the Crowded Places Forums has not clearly identified which crowded places do or do not require protective security measures.

It should be noted that there have been no cases where an event organiser or venue operator has been forced to implement protective security measures. This suggests that WAPol have provided advice and operators have allocated resources with some level of willingness, noting that WA Police do not have the authority to force compliance in these cases.

Any costs for additional protective security measures have no value in terms of marketability of the venue/event. In fact these protective security measures are wherever possible concealed so that attendees are not consciously aware of the existence of a threat being mitigated.

It's very easy to say, "you've got to do **something**" and every operator of every event/venue wants their customers to be safe. But in reality, it is much harder to identify what to do because the threat of terrorism is so imprecise and unpredictable.

At this point it would be interesting to pose some more specific questions to the person who created the title of the initial report (Near enough is not good enough).

1. Optus and NIB Stadium have comprehensive bag checks and sometimes metal detectors. The East Fremantle Sharks WAFL stadium with a crowd of less than 1000 has neither. Is this adequate?
2. Should every oval that is used for carols by candle light with a crowd of 2000 have the pine bollards replaced with heavy duty barriers to stop a truck entering the oval?

3. Should every volunteer at Soccer Clubs, Rugby Clubs, Netball Clubs and Little Athletics be trained to know what to do in the event of a terrorist attack?
4. Should there be a formal HVM plan for every ANZAC Day event in WA?
5. Should every Licenced Crowd Controller be trained to respond to a terroristic attack?
6. Should there be a licenced crowd controller at more events such as carols by candle light or soccer/netball club wind-ups?
7. Should there be armed police permanently present at Fremantle Cappuccino Strip, or Cottesloe or Scarborough Beaches?
8. Do we know what protective security measures are adopted at Bondi Beach and should this guide the response at Cottesloe Beach?
9. Should key venues and crowded places be permitted to hold Tasers stored in a secure place, for repelling armed assailants?

### **Funding and cost implications**

The proposed model for Local Governments response to the threat of terrorism involves an adaptation of an existing system and use of existing legislation and existing team of officers (EHO's) who already assess and approve all events and the majority of public venues in WA.

Once formal linkages between WAPol and EHO's have been established and the EHO's have been further trained, then the cost of this model is negligible and the model is adaptable to changing threats into the future.

The alternative would see new legislation to allow someone to force a person to implement protective security measures against their will, and new officers responsible for terrorism to be appointed at every Local Government in WA and introduced into the process of assessing and approving every event in WA.

There may be an argument for large high risk events and venues to be assessed by a committee overseeing Emergency Management at each Local Government. This is worthy of investigation but ultimately someone must have the authority to force protective security measures on an event organiser and the system must be able to deliver within a couple of weeks because the number of events continues to grow and the notice period given by applicants is often about 2-4 weeks.

If it is decided that "Near enough is not good enough" and the need for increased protective security measures is deemed necessary then the cost of holding an event is likely to increase including the cost of training event organisers and volunteers.

It will be disappointing if this results in some events not proceeding due to added costs and complexities but the consequences of not being prepared are significant (death and injury and reputational damage).

### **Timing/urgency**

The threat of terrorism to crowded places has existed globally for more than a year. If Australia and WA determine that there is a need for action to mitigate this threat

then there is some urgency and the response should not be delayed as something to consider in the future.

For this reason, the above draft protocol between Local Government and WAPol, sees the Local Government appointed officer trained within 6 months to be able to recognise an event or crowded place that justifies protective security measures, and to identify those permanent crowded places that justify protective security measures. That officer may refer them to WAPol for assessment within 12 months. Once this list of permanent crowded places is identified, then through the new working group of WAPol and PEHO's the places can be prioritised and modifications installed over the coming months/years as appropriate.

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Should you require any clarification or have additional enquiries, please do not hesitate to contact Mr Nick Jones at or myself direct on

Vic Andrich  
**President**  
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