

LEGISLATIVE COUNCIL

Question on Notice

Tuesday, 15 August 2023

LC1528. Hon Ben Dawkins to the Minister for Environment.

I refer the Minister to the letter dated 26 July 2023 from the Director General of the Department of Water and Environmental Regulation (DWER) to me (Letter) that states: 'Advice was sought from the Environmental Protection Agency (EPA) on the boundary change post the EPA's determination however, due to the technical nature of the subject, the then Department of Environment and Conservation liaised directly with the Western Australian Planning Commission', and I ask:

- (a) what was the date the advice was sought from the EPA on the boundary change;
- (b) which agency sought the advice;
- (c) will the Minister provide and table copies of the request for the advice (including attachments) and the response from the EPA (including attachments);
- (d) if no to (c), why not;
- (e) what was the date that advice was sought from the Department of Environment and Conservation (DEC);
- (f) which agency sought the advice;
- (g) can the Minister provide and table copies of the request for the advice (including attachments) and the response from the DEC (including attachments);
- (h) if no to (g), why not;
- (i) did either of the EPA or DEC receive any correspondence or representations from any other government agency aside from the Western Australian Planning Commission (including the Department of Water, the Water Corporation, the Department of Communities/Housing and the Housing Authority) relating to Greater Bunbury Region Scheme Amendment 0020/57;
- (j) if yes to (i), can the Minister provide and table copies of that correspondence and those representations and any responses from the EPA or DEC; and
- (k) if no to (j), why not?

Answer:

(a) - (b) On further review of the documentation, the correspondence dated 2 September 2011 from the Western Australian Planning Commission (WAPC) to the EPA was seeking

comment on the Water Corporation's response to the EPA's advice on GBRS 0020/57, not on a boundary change. Review of documentation also shows the Special Control Area No. 4 boundary depicted in the GBRS 0020/57 Amendment report referred to the EPA in May 2011 did not change prior to gazettal of GBRS 0020/57. The EPA's advice made note of the reduced boundary.

(c) No formal response was provided by the Office of the EPA (OEPA) to the WAPC's letter dated 2 September 2011. The OEPA advised WAPC via email to contact Department of Environment and Conservation (DEC) directly. The WAPC subsequently sought comments from DEC. The OEPA's email dated 22 September 2011 and DEC's response dated 13 November 2012 to WAPC are included at (g).

(d) DWER is not the owner of the documents requested. A Freedom of Information application made under the *Freedom of Information Act 1992* provides for access to documents and, for agencies to seek consent to release third party documents, or alternatively, a request to the Minister for Planning.

(e) - (f) Office of the EPA sought comments on the WAPC's letter dated 2 September 2011 from the DEC on 12 September 2011.

DWER has advised that based on records that could be accessed and reviewed in the time provided, the WAPC sought advice as part of the public comment process from the DEC on 6 September 2012. The WAPC also sought advice from DEC on 6 November 2012, 28 November 2012, 21 March 2013 and notification of finalisation of amendment on 17 June 2013.

(g) - (h) Yes for documents DWER own. [see tabled no.]

(i) The Office of the EPA received advice from the DEC to assist with its assessment of the referral of GBRS 0020/57.

Correspondence from the WAPC included correspondence from the Water Corporation.

(j) - (k) Yes for documents DWER own. [see tabled no.]

A handwritten signature in black ink, appearing to be 'Pw' or similar, located in the bottom right corner of the page.

[REDACTED]

From: [REDACTED]
Sent: Thursday, 22 September 2011 9:41 AM
To: [REDACTED]
Subject: FW: GBRs special control area No4 Dalyellup Wastewater Treatment Plant Odour Buffer
Attachments: 20110912164728181.pdf

Hi [REDACTED]

It's best if you contact [REDACTED] directly from DEC concerning the above.

Kind regards
[REDACTED]

[REDACTED]
[REDACTED]
Planning and Infrastructure Branch
Office of the Environmental Protection Authority
The Atrium, Level 8, 168 St Georges Terrace, Perth
Locked Bag 33, Cloisters Square, Perth WA 6850
direct: [REDACTED] | reception: 08 6467 5600 | fax: 08 6467 5556
[REDACTED] | web: www.epa.wa.gov.au

From: [REDACTED]
Sent: Monday, 12 September 2011 4:43 PM
To: [REDACTED]
Subject: GBRs special control area No4 Dalyellup Wastewater Treatment Plant Odour Buffer

Hi [REDACTED]

I have received a response from the Water Corporation concerning the above (attached).

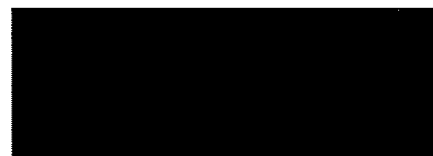
Would you have any further comments?

Thank you

Kind regards
[REDACTED]

[REDACTED]
[REDACTED]
Planning and Infrastructure Branch
Office of the Environmental Protection Authority
The Atrium, Level 8, 168 St Georges Terrace, Perth
Locked Bag 33, Cloisters Square, Perth WA 6850
direct: [REDACTED] | reception: 08 6467 5600 | fax: 08 6467 5556
[REDACTED] | web: www.epa.wa.gov.au

30/09/2011



Western Australian Planning Commission
South West Office, Sixth Floor,
Bunbury Tower, 61 Victoria Street
BUNBURY WA 6230

ATTENTION: 

**GREATER BUNBURY REGION SCHEME AMENDMENT – 0020/57 -
PROPOSAL TO ESTABLISH THE DALYELLUP WASTEWATER TREATMENT PLANT ODOUR
BUFFER AREA AND TO INSERT SPECIAL CONTROL AREA NO 4 FOR WASTEWATER
TREATMENT PLANT ODOUR BUFFERS IN GREATER BUNBURY REGION SCHEME TEXT**

I refer to your letter of 6 September 2012 forwarding a Greater Bunbury Region Scheme amendment for the Department of Environment and Conservation's (DEC) consideration and comment.

DEC South West Region (SWR) supports the proposed Special Control Area approach.


The Environmental Protection Authority (EPA) provided advice to the Western Australian Planning Commission on the Greater Bunbury Regional Scheme (GBRS) amendment on 18 July 2011 (EPA 2011).

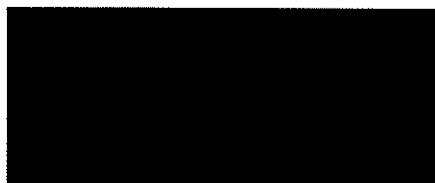
EPA 2011 advised that there were uncertainties with the odour modeling results and therefore the Waste Water Treatment Plant modeling would need to be resolved to assist in determining an appropriate boundary.

EPA 2011 also recommended that air quality and noise impact assessments of the nearby Millennium Inorganic Chemicals Waste facility be included in any buffer redeterminations or scheme amendments for this area.

DEC SWR advises that no additional information to support the proposed SCA No 4 boundary, as requested by EPA 2011, was provided with the amendment documents.

The noise and odour modeling assessments should be completed to the satisfaction of DEC Air Quality and Noise Assessment branches, as per EPA 2011 advice, prior to the adoption of the scheme amendment.

Thank you for the opportunity to comment on this application. Please contact  at the DEC South West Region office if you have any queries regarding this advice.



5 November 2012

cc: DEC Air Quality Branch
DEC Noise Branch

2012/000238 - 1



Government of Western Australia
Department of Environment and Conservation

Your ref: RLS/0195
Our ref: PRS32982
Enquiries: [REDACTED]
Phone: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]

Western Australian Planning Commission
South West Office, Sixth Floor,
Bunbury Tower, 61 Victoria Street
BUNBURY WA 6230

COPY

ATTENTION: [REDACTED]

**GREATER BUNBURY REGION SCHEME AMENDMENT – 0020/57 -
PROPOSAL TO ESTABLISH THE DALYELLUP WASTEWATER TREATMENT PLANT ODOUR
BUFFER AREA AND TO INSERT SPECIAL CONTROL AREA NO 4 FOR WASTEWATER
TREATMENT PLANT ODOUR BUFFERS IN GREATER BUNBURY REGION SCHEME TEXT**

I refer to your email of 6 November 2012 requesting additional comments on the above Greater Bunbury Region Scheme amendment.

The Department of Environment and Conservation's (DEC) South West Region (SWR) notes that the Water Corporation letter dated 22 August 2011, attached to the above email, was referred to the Environmental Protection Authority (EPA) by the Western Australian Planning Commission on 2 September 2011.

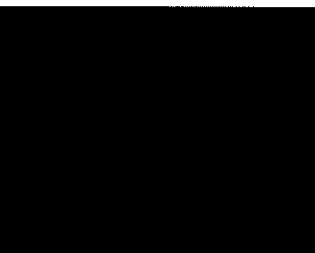
DEC SWR also notes that the EPA suggested in an email dated 22 September 2011 that WAPC contact the relevant officer from DEC Air Quality branch (AQ) directly, in relation to the 2011 Water Corporation letter. DEC has no record of WAPC contacting DEC AQ branch regarding the Water Corporation letter dated 22 August 2011.

EPA 2011 advised that there were uncertainties with the odour modeling results and therefore the wastewater treatment plant modeling would need to be resolved to assist in determining an appropriate boundary.

EPA 2011 advised that Water Corporation, DEC and WAPC need to resolve the wastewater treatment plant modeling and determine an appropriate boundary prior to finalization.

DEC SWR advises that the information provided to date, regarding the proposed buffer, has been inadequate and no modeling information has been provided based on the existing upgraded facility.

DEC SWR recommends that WAPC liaise directly with DEC AQ and Noise Regulation branches regarding this matter. DEC AQ branch can be contacted on [REDACTED] or phone [REDACTED]. DEC Noise Regulation branch can be contacted via [REDACTED].



13 November 2012

cc: DEC Air Quality Branch
DEC Noise Branch



South West Region
South West Highway, Bunbury WA 6230
Phone: 08 97254300 / Fax: 08 97254351
PO Box 1693, Bunbury, WA 6230
www.dec.wa.gov.au

[REDACTED]

From: [REDACTED]
Sent: Thursday, 29 November 2012 11:30 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: GREATER BUNBURY REGION SCHEME AMENDMENT 0020/57 - DALYELLUP WASTEWATER TREATMENT PLANT ODOUR BUFFER AND SPECIAL CONTROL AREA NO 4.

Hi [REDACTED],

I had a look at the letters and the amendment report. I have suggested minor amendments to the proposed Division 5. The idea is to ensure that the waste water treatment plant is protected in case of plant expansion and/or emerging technology resulting in less odour but more noise. At this stage, the odour buffer appears large enough to also cover the noise impact.

Do not hesitate to call to discuss.

Regards,
[REDACTED]

Division 5 — Wastewater Treatment Plant Odour and Noise Buffer Areas

24A. Purposes — SCA No. 4

The purposes of SCA No. 4 are —

- (a) to implement State planning policy No. 4.1: State Industrial Buffers Policy; and
- (b) to identify land likely to be subject to offsite odour and noise impacts from wastewater treatment plants; and
- (c) to ensure that the use and development of the land in the area is compatible with the on-going operation and expansion of the capacity of the treatment plant, to the extent possible, within the identified odour buffer.

24B. Planning requirements — SCA No. 4

In considering an application for planning approval in SCA No. 4, the Commission is to have regard to —

- (a) whether the proposal is compatible with any existing or proposed future use or development within the wastewater treatment plant; and
- (b) whether the proposal —
 - (i) will suffer adverse impacts from possible odour and noise emissions; or
 - (ii) may, by its nature, potentially jeopardise the continued operation of the wastewater treatment plant; or
 - (iii) may limit the wastewater treatment plant from operating at its planned ultimate capacity; and
- (c) any other relevant planning and environmental considerations including, but not limited to, provisions of the State Planning Framework and policies of the EP department.

24C. Consultation

In considering an application for subdivision or development approval with respect to land wholly or partly within SCA No. 4, the Commission is to consult with the chief executive officer of Water Corporation for



Western Australian Planning Commission
South West Office, Sixth Floor,
Bunbury Tower, 61 Victoria Street
BUNBURY WA 6230

ATTENTION: [REDACTED]

**GREATER BUNBURY REGION SCHEME AMENDMENT – 0020/57 -
PROPOSAL TO ESTABLISH THE DALYELLUP WASTEWATER TREATMENT PLANT ODOUR
BUFFER AREA AND TO INSERT SPECIAL CONTROL AREA NO 4 FOR WASTEWATER
TREATMENT PLANT ODOUR BUFFERS IN GREATER BUNBURY REGION SCHEME TEXT**

I refer to your email of 28 November 2012 sent to the Department of Environment and Conservation's (DEC) Air Quality and Noise Regulation Branches requesting additional comments on the above Greater Bunbury Region Scheme amendment.

DEC notes that DEC Noise Regulation branch provided a response to the Western Australian Planning Commission dated 29 November 2012.

DEC South West Region (SWR) provides the following advice on behalf of DEC Air Quality branch.

The Water Corporation's letter to the Department of Planning dated 22 August 2011, states that they are confident in their 2007 odour modeling assessment, and the technology of the 2009 upgraded plant, being of a standard that confirms suitability of the buffer boundary as indicated on the scheme amendment's "Proposed amendment to the Greater Bunbury Region Scheme - Wastewater Treatment Plant Odour Buffer – Special Control Area (SCA No 4)" dated 12 April 2011 (Figure 1).

DEC notes that under Part V Section 49 of the *Environmental Protection Act 1986 (EP Act)*, it is an offence to emit or cause an unreasonable emission to be emitted from any premises. An unreasonable emission is defined in the *Environmental Protection Act 1986* as:

"an emission of noise, odour or electromagnetic radiation which unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person."

The Water Corporation are reminded of the obligation to comply with the *Environmental Protection Act 1986 (EP Act)*, and in particular, Part V Section 49.

Given the Water Corporation's stated expertise and confidence in the adequacy of their 2007 odour modeling assessment data, and in the 2009 plant upgrade, DEC would expect that if any unreasonable emissions are emitted from the subject site in the future, that Water Corporation would be agreeable to undertake odour remediation to the satisfaction of DEC.

DEC requests a letter from Water Corporation which confirms the commitment of Water Corporation to undertake odour remediation to the satisfaction of DEC if any unreasonable odours are emitted from the premises. DEC also expects to find a clear statement about the actions to be implemented, if such odour emissions occur, in the Odour Management Plan (OMP) that Water Corporation would provide to DEC. In addition, any DEC approved OMP is likely to be included in the site's EP Act license.

Therefore, if Water Corporation provides an assurance they will undertake additional odour management, to the satisfaction of DEC, if odour complaints associated with the wastewater treatment plant occur following the introduction of the SCA No4 buffer area, then DEC has no additional comments to make regarding the proposed scheme amendment.

Please contact [REDACTED] at the DEC South West Region office if you have any queries regarding this advice

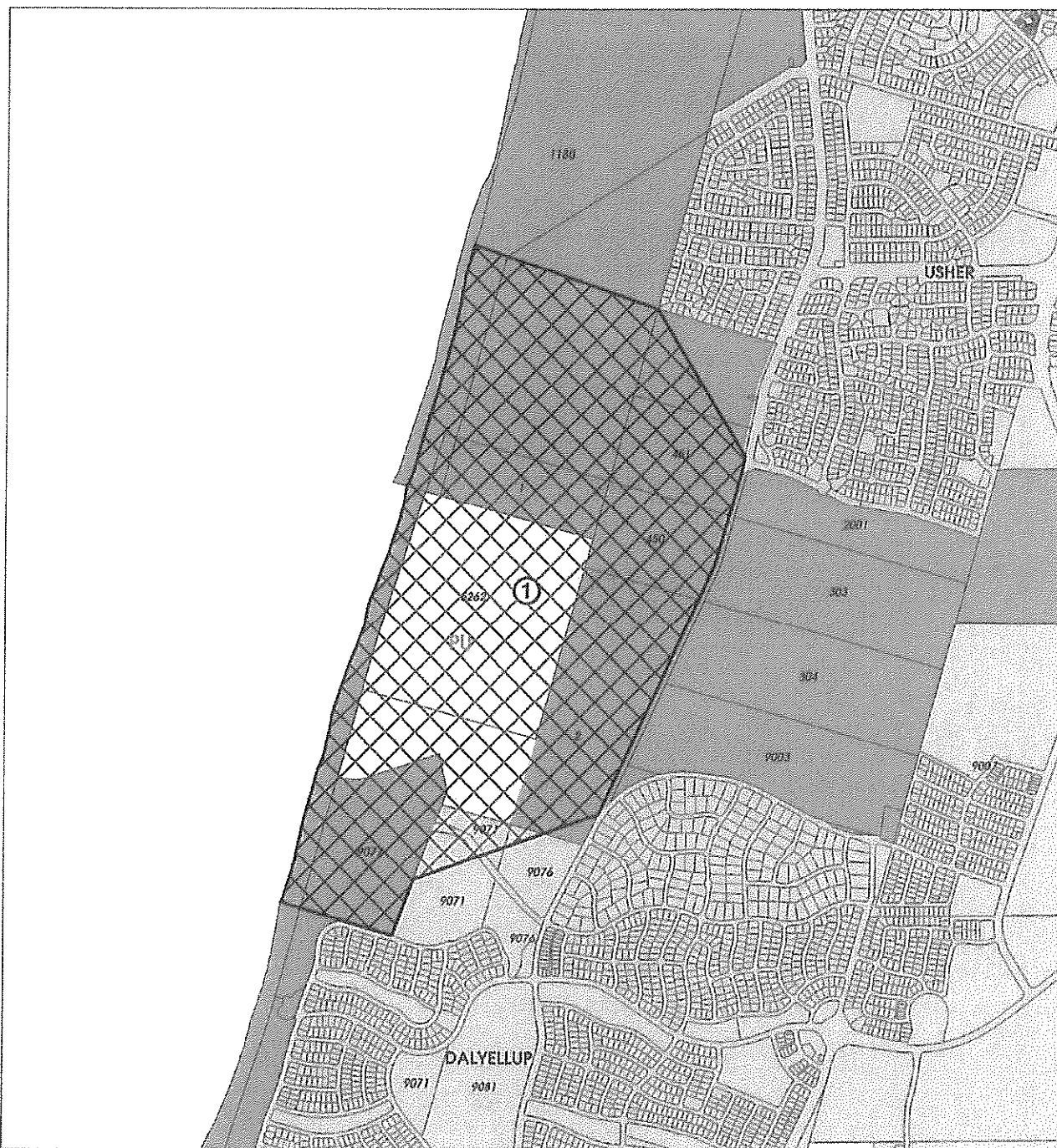


7 December 2012

cc: DEC Air Quality Branch
DEC Industry Regulation South West

Dalyellup Wastewater Treatment Plant Odour Buffer

Figure 1





Western Australian Planning Commission
South West Office, Sixth Floor,
Bunbury Tower, 61 Victoria Street
BUNBURY WA 6230

ATTENTION: [REDACTED]

**GREATER BUNBURY REGION SCHEME AMENDMENT – 0020/57 -
DALYELLUP WASTEWATER TREATMENT PLAN ODOUR BUFFER & SPECIAL CONTROL
AREA NO. 4**

I refer to your letter of 21 March 2013 (DPI 2013) advising that the Water Corporation has addressed the Department of Environment and Conservation's (DEC) concerns in a letter dated 11 January 2013 (WCorp 2013), a copy of which was forwarded to DEC.

DPI 2013 also requested DEC confirm that based on the information provided by WCorp 2013, that DEC had no objection to the amendment proceeding. DEC supports the intent of the proposed odour buffer.

DEC South West Region (SWR) provides the following comments on the WCorp 2013 response to DEC concerns.

The Environmental Protection Authority Guidance Statement No. 3 (EPAGS3) defines a 'buffer' as "all the land between the boundary of the area *that may potentially be used by an industrial land use*, and the boundary of the area within which unacceptable adverse impacts due to industrial emissions on the amenity of sensitive land use are possible".

The Water Corporation has advised that given the site operates under an EP Act License issues such as odours and complaint management are regulated under the current license.

DEC licensing database indicate that the Bunbury Wastewater Treatment Plan (WWTP) is an Environmental Protection Act 1986 (EP Act) Licensed premise located at Lot 5262 on Plan 183085 Minninup Road Bunbury (L5972/1992/13).

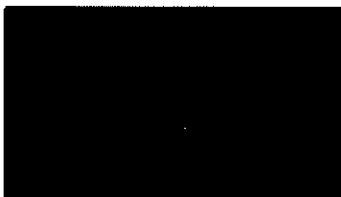
DEC advises that the WWTP license conditions do not apply to properties located outside of Lot 5262 on Plan 183085 Minninup Road Bunbury. A copy of the license is attached for your information.

Therefore, DEC believes, the odour buffer includes areas outside of the EP Act Licensed premise and thus license conditions may not apply.

Given this, DEC requests Water Corporation confirm the commitment to undertake immediate response to odour complaints and immediately remediate to DEC's satisfaction if any unreasonable odours are emitted by Water Corporation beyond the license premises boundary. DEC expects to find a clear statement about these actions to be implemented, if such odour emissions occur, in the Odour Management Plan (OMP) that Water Corporation shall copy and provide to DEC.

Therefore, if Water Corporation provide a commitment they will undertake additional odour management, to the satisfaction of DEC, if odour complaints associated with the WWTP occur, outside of the EP Licensed boundary, following the introduction of the SCA No4 buffer area, then DEC has no additional comments to make regarding the proposed scheme amendment proceeding.

Please contact [REDACTED] at the DEC South West Region office if you have any queries regarding this advice



30 April 2013

Att.

cc: DEC Air Quality Branch
DEC Industry Regulation South West



ENVIRONMENTAL PROTECTION AUTHORITY

Office of the EPA

Assessment and Compliance Services
Planning and Infrastructure Branch

INTRA-DEPARTMENTAL REQUEST FOR INFORMATION/ ADVICE UNDER SECTION 48C(1) OF THE *ENVIRONMENTAL PROTECTION ACT 1986*

TO: [REDACTED]

FROM: [REDACTED] OEPA

DATE OF REQUEST: 25 May 2011

DATE ADVICE REQUIRED: 22 June 2011

CRN AND FILE NO: OEPA2010/000391-1 Proposed Greater Bunbury Region
Scheme (GBRS) Amendment 0020/57

The Proposal

To establish the Dalyellup wastewater treatment plant odour buffer area and to insert special control area No4 for wastewater treatment odour buffers provisions in the GBRS.

Stage in the EIA Process

Referral under S48c(1) of the EP Act 1986.

Key Issues

Odour modelling studies indicate:

- The projected odour emissions for the 35ML/d plant are slightly less than or the same as the existing 9ML/d plant;
- New buffer can be slightly reduced a little due to the south;
- No residential, restaurant development, tourism development or other odour sensitive uses should be permitted and
- The EPA 'green-light' odour criteria for control of odours generally support the recommended buffer zone and no further assessment of odour is needed.

Advice Requested

Please review the Odour Modelling and provide advice on the scientific rigor of the air quality assessments.

Reference Documents


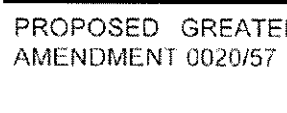
Copy of the WAPC amendment report, amending plan and CD containing the Water Corporation report and data.

PLEASE CAN YOU FORWARD YOUR REPLY TO ME BY:

22 June 2011

Please note that EPA decision-making is subject to statutory timelines. If you cannot respond within the time provided in this request, or if you need further information, please contact [REDACTED] as soon as possible. Please also advise me if you have no comments.

**AIR QUALITY MANAGEMENT BRANCH
TECHNICAL ADVICE**

TO: 
PREPARED BY: 
SUBJECT: PROPOSED GREATER BUNBURY REGION SCHEME
AMENDMENT 0020/57
FILE NO:
DATE: 05 JULY 2011

IMPORTANT: This advice is for DEC Internal Use ONLY and should not be forwarded to a third party without the prior authorisation of the Manager Air Quality Management Branch

Further to your technical advice request of 07 June 2011, AQMB has reviewed sections of *Greater Bunbury Region Scheme Amendment 0020/57 - Proposal to establish the Dalyellup Wastewater Treatment Plant Odour Buffer Area and to insert Special Control Area No. 4 for Wastewater Treatment Plant Odour Buffers* (Shire of Capel, May 2011) and provide the following comment.

Please refer to our statement of limitations in regard to this review as shown below.

Summary:

AQMB was requested by the Office of the EPA to provide advice on the odour modelling and scientific rigor of the air quality assessments contained in the above report

Due to the absence of electronic copies of the model input files a thorough review of the modelling was not able to be undertaken. However a number of significant issues were noted with the modelling which limit the usefulness of a more in-depth review.

Our main observation regarding the report is that, for a variety of reasons (see Detailed Comments section), large uncertainties exist in the modelled extent of odour impacts from the existing and planned future wastewater treatment plants. This is of particular concern as the modelled criterion contours selected by the Water Corporation as a "nuisance odour boundary" lie very close to existing urban residential areas with very little room for error. The report notes that detectable odour has been reported by residences some distance beyond the criterion contour modelled for the plant configuration current at the time. This suggests that the assumptions made in the modelling for at least the period in question and possibly the other periods as well - are not sufficiently conservative to properly capture the full extent of odour impacts from the facility during the full range of normal and upset conditions.

The report notes that should odour issues occur after completion of the planned upgrade a retrospective implementation of additional odour controls would be very expensive, add significantly to the plant's carbon footprint and divert funds away from other worthy community projects. Alternatively the service provided by the plant may need to be reduced or the planned capacity not reached.

In view of the large uncertainties in the modelling results, DEC **strongly recommends that reductions to the existing buffer not be considered** until all planned plant upgrades have taken place, full capacity of the facility is reached and the extent of its impacts reliably ascertained from empirical data. It is possible that the existing buffer is already insufficient to protect against unreasonable emissions from the existing and/or future planned plant configurations.

It was also noted that the suggested reduction of the odour buffer in the south-east corner would also reduce the existing buffer around the Millennium Inorganic Chemicals Waste Facility to essentially zero separation distance. We were unable to undertake any assessment regarding this facility due to lack of information but recommend that air quality and noise impact assessments of this facility be included in any buffer redeterminations or scheme amendments of this area.

Detailed Comments

1. General comments

- a. The modelling report provided with the submission is an old (2007) report which was undertaken prior to the more recent plant upgrades. This is a significant shortcoming of the report as data cited such as the emission rate estimates and complaints records are not current

2. Source assessment

- a. Very little detail is provided regarding the existing and planned expanded facility odour sources and their assessment. Clearly labelled diagrams showing the sources at the existing facility and intended for the upgraded facility are absent. Also absent are details of the assumptions, and sampling and measurement methodology used in arriving at the quoted emission rates.
- b. The odour emission rates used in the modelling for the **current configuration** (15 ML/day) are old projections based upon earlier measurements from the 9 ML/day plant configuration and other plants rather than measurements from the currently operating facility. The emission rates for the planned upgraded facility are also projections from data available in 2007. This adds greatly to the uncertainty of the emission rates for the existing and future plant configurations.
- c. No discussion is included in the report regarding the fact that some of the emission rates appear to be based upon flux-hood measurements while others are likely to be estimates based upon other measurement methodologies. Emission rates from flux-hoods are not directly comparable with other measurement techniques and cannot simply be summed to get a

total figure for the facility's emissions. This adds significantly to the uncertainty in the actual emission rates.

- d. The 15% emissions sensitivity analysis provided with the modelling report is insufficient to capture the uncertainty in future emissions resulting from unknown future water management practices and long term size and capacity.

3. Modelling

Model input files were not provided to DEC so a proper review of model settings, procedures and meteorological dataset quality was not able to be undertaken. However the following points were noted:

- a. It is not clear if the stack impacts have been included in the modelling.
- b. If the stack has been included in the modelling it is not clear how, or what criterion was applied. DEC would normally recommend that the stack emissions be multiplied by a factor in order to place their peak-to-mean impacts at a comparable level with the ground-level sources.
- c. The 99.9th percentile criteria used by the Water Corporation is problematic in that it was not calibrated against the plant in question. As such it should not be treated as a reliable indicator of the extent of nuisance odour impacts for the Dalryellup plant, even if the emissions from all odour sources were measured accurately.

Limitations of our Review

Please note the following important information relevant to the review of this proposal by AQMB:

- Reported data are generally accepted as supplied. We do not attempt to verify emission rate data adopted for the modelling assessment, including parameters used in the estimation of emission rates such as measured emission concentrations and stack flow rates;
- We do not assess the proposed technology in terms of emission control, and how this relates to requirements for implementation of "Best Practice" as per EPA Guidance Statement No. 55;
- AQMB does not have primary responsibility for the assessment of public health issues, including Health Risk Assessment, in relation to air pollution. This is the role of the Department of Health.
- Scoping documents should refer to DEC's *Air Quality Modelling Guidance* notes and should note that modelling included for assessment reports should comply with the modelling guidance notes.