

Submission on the DWER Draft Odour Guideline for Prescribed Premises

April 2018



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.

This Submission was considered and endorsed by the Municipal Waste Advisory Council on Wednesday 18 April 2018.

Executive Summary

The Association welcomes the opportunity to comment on the draft *Odour Guideline for Prescribed Premises* (the Guideline). The Association supports the adoption of a risk based approach to regulation. Through the previous regulatory reform process, the Department had started to provide much needed guidance on how to navigate the assessment process for prescribed premises. It is anticipated that by clarifying what information the Department requires to analyse the potential impact of odour emissions from prescribed premises, the assessment process will be further improved.

However, the Association has concerns with:

- The linkages from the Guideline to the decision making framework, application process and various Guidance Statements / Guidelines. The Guideline does not clearly link to the *Guidance Statement: Decision Making*, or make clear when in the assessment process for works approvals/licences odour assessments are required. The Guideline also takes a different approach to that of the *Draft Guideline on Environmental Noise for Prescribed Premises*, remaining silent on how facility risk ratings are arrived at by the Department.
- The use of screening distances. The Guideline predominately relies on screening distances to determine if a detailed analysis is required. It makes very little reference to other factors that influence the risk of odour emissions. This has the potential to significantly increase the regulatory burden on facilities where odour is only a minor (and managed) risk. It is not clear what evidence base has been used to arrive at the screening distances proposed in the Guideline.

1. Introduction

Local Government welcomes the opportunity to comment on the Guideline. It is hoped that the information provided by proponents to the Department as a result of the Guideline, will facilitate a more streamlined assessment process.

Local Government undertakes a range of activities and may operate any number of prescribed premises, including:

- Sewage facilities

- Liquid waste facilities
- Livestock saleyards or holding pens
- Used tyre storage facilities
- Solid waste facilities
- Solid waste depots
- Landfills
- Compost manufacturing and soil blending facilities
- Facilities where building material is crushed.

The Association, working with AORA, hosted a workshop for the sector on Monday 26 March, where presentations on the Guideline were made by DWER staff. This workshop highlighted that the Department is currently re-examining the regulatory reform initiative. As a matter of urgency, the Department must provide direction to industry on how it intends to proceed with regulatory reform.

This Submission builds on a number of previous discussions with, and Submissions to the Department on the regulatory reform initiative. General comment is provided on the context that the draft Guideline will operate within and the overarching approach that has been proposed to manage odour emissions.

2. General Comments

Assessment Framework

Consultation has already occurred on many of the documents that will establish the Department's framework for regulating prescribed premises. Clarity is needed on the Department's final position on these documents, as well as the timeframe for release and implementation. It is not until all of the documents which will inform the assessment and regulation of prescribed premises are finalised, that the implications for each facility will be fully understood. It is currently not clear where in the decision making process for works approvals/licences (as identified in the *Guidance Statement: Decision Making*), the draft Guidelines are to be used by either applicants or the Department.

It is also important that a consistent approach is maintained across the suite of regulatory reform documentation on how various emissions should be addressed in the submission and assessment of applications. The draft *Environmental Standard: Composting* refers to a number of site specific risks such as odour emissions and the corresponding controls that can be used to manage these risks. This includes acceptable and unacceptable feedstock risk categories, risks from final products, as well as infrastructure and processing requirements. This differs from the approach taken in the draft Guideline, where the focus is on the type of documentation required to complete an odour impact analysis. In finalising these documents, the Department must clearly communicate what approach to odour management it considers to be acceptable.

It is important that the Guideline results in a streamlined risk assessment process that is easy to navigate. If Local Government is not supported in transitioning across to the new regulatory framework, there could be a range of unintended consequences.

Recommendation: That the draft *Odour Guideline for Prescribed Premises* is not implemented until a final position has been reached on other regulatory reform documentation that affects prescribed premises.

Screening Distances

Local Government has several concerns with the screening distances proposed in the draft Guideline.

Use of Screening Distances – general

The structure of the draft Guideline implies that the Department places a higher value on screening distances than other factors, such as operational controls, in its assessment process. By applying a blanket screening distance to each category of prescribed premises, a broad range of facilities is

effectively assigned a default risk rating on odour emissions. With the exception of composting facilities, this approach does not take into account the size of a facility, throughput, type of material processed, operational approaches, engineered controls, prior complaints history, or any other factor that could influence odour emissions, as demonstrated by the following examples:

- Solid Waste Depot – the odour impact of a small Local Government transfer station accepting only co-mingled recyclable material in the order of 500 – 600 tonnes per year, would differ substantially to that of a commercial operator accepting 10,000 – 50,000 tonnes of putrescible waste per year.
- Class II or III Landfill – a landfill accepting 20 tonnes of waste per year will have a different odour impact to that of a site accepting 100,000 tonnes of waste per year. The operational practices at the facility will also have an impact, such as the use of daily cover.
- Composting Facilities – composting facilities of a similar size, using the same operational approach (e.g. open wind row composting), could present a different odour impact, as a direct consequence of the feedstock processed.

Recommendation: That the Department uses a risk based approach to assess if a detailed odour analysis is required, as opposed to only a screening distance.

Use of Screening Distances – application to existing facilities

The draft Guideline states it will be applied to “*all applications for works approvals, new licences, amendments to works approvals and amendments to existing licences involving odour emissions...*” For existing facilities, this will increase in the regulatory burden where odour is currently only a small risk, or is actively managed. Therefore an assessment of the impact that the additional requirements will have on the approval, construction and operation of prescribed premises is needed.

Costs associated with developing applications that satisfy the requirements of the Guideline and the corresponding construction and operation of approved prescribed premises must be kept to a minimum. The Guideline should also reduce the time taken by the Department to assess applications for prescribed premises. Local Government requests that the Department undertakes an assessment of the cost/benefits relating to new regulation and releases this information publically.

The Guideline could be improved by the inclusion of text from, or a linkage to, the *Guidance Statement: Decision Making* that outlines what situations the Guideline will or will not be applied. In addition, information should be included on the appeal mechanism available to proponents that wish to question the necessity of undertaking a detailed analysis of odour emissions. The Department must outline how it will use the information provided by proponents as a result of the Guideline, in applying regulatory controls/conditions to existing facilities. New conditions should be developed in consultation with operators, to ensure any changes are implemented in a reasonable timeframe, commensurate with risk.

Recommendation: That the Department assesses the cost/benefit of new regulation and publishes the results of this analysis.

Recommendation: That the Department clarifies when in the Decision Making process the Odour Guideline will be used.

Use of Screening Distances – evidence base

The screening distances in the draft Guideline are the same as those proposed through consultation on the now withdrawn draft *Guidance Statement: Separation Distances* (refer to Table 1). At the time, the Department indicated that these distances had no scientific basis and presented a ‘worse case’ scenario. If these distances could be met by prescribed premises, the Department would be less likely to be concerned at the potential for emissions. The separation distances that were proposed by the Department were greater than those used previously for land use planning purposes. It was clear that the majority of existing facilities would not have met these distances. This draft Guidance Statement was withdrawn from the Department’s suite of Regulatory Framework documents as a means of:

“...avoiding stakeholder confusion or misunderstanding as to its purpose or use. The consideration of distances from sensitive receptors will still be used by DER to inform assessments and decision making. Distances will be assessed on a case-by-case basis.”¹

As acknowledged in the draft Guideline, emissions such as odour have an impact on amenity, not public health. Given the vague definition of a sensitive receptor, it is difficult for Local Government to understand why a screening distance that is clearly based on a separation distance with a limited scientific or evidence base - will be used to assess if a detailed analysis is required, and consequently the type of regulatory controls that will be applied.

Recommendation: That the Department presents the evidence used to inform the development of screening distances.

3. Draft Odour Guideline for Prescribed Premises

This section of the Submission comments on areas of the Guideline that Local Government considers further attention is required. Where appropriate, amendments or alternative approaches are proposed.

Section 1.1 Introduction

The context provided in this section of the Guideline on its intended use as a guide to the information requirements for odour impact analysis is useful. Similarly beneficial, is the inclusion of a statement in the Guideline that it is not be used in assessing land-use planning proposals. Despite establishing this context, concerns have been raised at the way that planning authorities and the Department use screening distances / separation distances. This matter is further discussed in the commentary provided on Appendix 2 of the draft Guideline.

Section 1.3 Review

The Association supports the inclusion of a review mechanism in the Standard. Regular reviews are required to maintain a contemporary set of regulatory tools and guidance documents. To ensure that scheduled reviews occur, a program of works must be established that guides relevant staff and stakeholders through this process.

Section 2 Odour Assessment Overview / Section 3 Screening Analysis

The majority of prescribed premises listed in Schedule 1 of the *Environmental Protection Regulations 1987* have been included in Appendix 2 of the draft Guideline. This implies that these prescribed premises must undergo an assessment of odour emissions. If this is the case, the Department has effectively reverted back to using the approach outlined in Appendix 1 of the draft *Guidance Statement: Regulatory Controls* (December 2015). In the Department's Consultation Summary Report (November 2016), the Department indicated that it was moving away from using an approach where a list of typical and expected emissions would be used to apply primary and secondary regulatory controls².

It is not clear how the draft Guideline informs the Department's decision making process. Figure 1 of the draft Guideline outlines what information DWER requires to undertake a risk assessment, whereas Figure 1 of the *Guidance Statement: Decision Making* states that the risk assessment process occurs in accordance with the relevant Guideline on Emissions:

“Where there is a risk from the premises arising from proposed or actual emissions to air, land or water, DER will:

¹ Department of Water and Environmental Regulation (accessed March 2018). Regulatory Framework. Available online. <https://www.der.wa.gov.au/our-work/regulatory-framework>.

² Department of Water and Environmental Regulation (November 2016). Consultation Summary Report. Available online. <https://www.der.wa.gov.au/component/k2/item/6567-consultation-summary-guidance-statement-decision-making-and-guidance-statement-risk-assessments>.

- (a) validate any screening analysis of the risk of the emission undertaken by the applicant;
 - (b) if required, specify the modelling or further information to be provided; and
 - (c) specify the type and frequency of monitoring required.
- Where relevant, the Guidelines on Emissions will apply.”

Very little information is provided in the draft Odour Guideline, on how the Department will arrive at the risk rating that it applies to a prescribed premises. This approach differs to the one used in the draft *Guideline on Environmental Noise for Prescribed Premises* (May 2016).

Recommendation: That the Department uses a consistent approach to assess all emissions.

Section 4 Detailed Analysis

The Association is concerned at the lack of information provided on when the non-mandatory components of the detailed analysis process will be required. There must be a focus on ensuring that the right information is provided to the Department by proponents in the first instance, to reduce the delays that occur when further information is requested.

Section 5 Reporting

Reporting requirements are clearly articulated in the draft Guideline. As discussed in Section 2 of this Submission, it is important that a risk based approach is used to determine when an assessment of odour is required. This will reduce the complexities associated with submitting applications.

Appendix 1 – Screening Analysis

This component of the Guideline looks to be straightforward to use. However, as highlighted throughout this Submission, it is not clear why a screening distance is the primary tool used to assess if a detailed analysis is required.

Appendix 2 – Odour Screening Distances

The Association has compared the proposed odour screening distances for the prescribed premises that Local Government may operate, with the *EPA Guidance on Separation Distances (2005)* and the now withdrawn draft *DER Guidance Statement: Separation Distances* (Table 1). It is clear that the Department has reframed separation distances as screening distances. In some instances, prescribed premises that were initially identified as likely to emit odour emissions in the draft *Guidance Statement: Regulatory Controls* and the draft *Guidance Statement: Separation Distances*, have not been included in the draft Odour Guideline. If the Department intends to use screening distances as part of their assessment process, it must present the evidence base that was used to arrive at the conclusion that this approach will deliver the desired outcomes.

EPA Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses (June 2005)	Withdrawn draft DER Guidance Statement: Separation Distances (August 2015)		DWER draft Odour Guideline for Prescribed Premises (January 2018)	Comment/ Recommendation	
Description & buffer distance in metres and qualifying notes	Category No and Description		Emissions & Distance (m)	Screening Distance (m)	
Used tyre storage (premises on which used tyres are stored) 100-200m, depending on size	57	Used tyre storage (general) (100 tyres or more)	Gaseous, noise, dust, odour 1,000		Not included in the draft Guideline.
Incineration (biomedical, chemical, or organic waste) 500-1000 depending on size (plastic or rubber waste) 1000 (waste wood) 300 Waste disposal (waste- resource recovery plant) case by case	60	Incineration (100 kg or more per hour)	Noise, dust, odour 1,000		Not included in the draft Guideline. Recommendation Incineration facilities should be included, with likely odour impacts assessed on a case by case basis. It is anticipated that there will be limited applications received for this category of prescribed premises.
Industrial liquid waste (site on which liquid waste from other premises is stored, reprocessed, treated or irrigated/discharged) case by case	61	Liquid waste facility (100 tonnes or more per year)	Noise, odour 1,000	1,000	Recommendation Justify why a change is warranted from a case by case assessment to a set distance.
Waste disposal – resource recovery plant (premises on which waste is stored, reprocessed, treated or discharged to land) case by case	61 A	Solid waste facility (1,000 tonnes or more per year)	Noise, dust, odour 500	Stored, reprocessed or treated 500 Biosolids application areas 1,000	Recommendation Justify why a change is warranted from a case by case assessment to a set distance.
Waste disposal – waste depot (premises on which waste is stored or sorted, pending final disposal or reuse) 200m	62	Solid waste depot (500 tonnes or more per year)	Noise, dust, odour 200	200	No change
Waste disposal (putrescible landfill site (Class 2&3)) 500 for sensitive uses (subdivisions), 150 for single residences & an internal buffer of 35 from boundary	64	Class II or III putrescible landfill site (20 tonnes or more per year)	Gaseous, noise, dust, odour 1,000	1,000	Local Government is not aware of any well managed and regulated facilities in this category of prescribed premises that are causing significant public health and amenity issues with the current separation distances. Recommendation Justify why a change to this distance is warranted.
Waste disposal (secure landfill site (Class 4)) case by case	65	Class IV secure landfill site	Gaseous, noise, dust, odour 1,000	1,000	Recommendation Adopt a case-by-case approach to assessment, as there will only ever be

					a limited number of facilities operating in WA.
Waste disposal (intractable waste landfill site (Class 5)) case by case	66	Class V intractable landfill site	Gaseous, noise, dust, odour 1,000		Not included in the Guideline. Recommendation Adopt a case-by-case approach to assessment, as there will only ever be a limited number of facilities operating in WA.
Outdoor uncovered regularly turned windrows 1000 for manures, mixed food/putrescible & vegetative food waste; 500 for biosolids & 150 for greenwaste	67 A	Compost manufacturing and soil blending (1,000 tonnes or more per year) outdoor uncovered	Noise, dust, odour 2,500 for up to 35,000t/y 1,800 for up to 20,000t/y 1,300 for up to 12,000t/y 800 for up to 5,000t/y 400 up to 2,000t/y Above 35,000t/y then case by case	Outdoor uncovered 2,500 for up to 35,000 tonnes/year 1,800 for up to 20,000 tonnes/year 1,300 for up to 12,000 tonnes/year 800 for up to 5,000 tonnes/year 400 up to 2,000 tonnes/year Above 35,000 tonnes/year, then case by case	Clarification is requested on the use of the phrase 'outdoor uncovered,' as opposed to 'outdoor uncovered, regularly turned windrows.' This approach was previously used in the 2005 EPA Guidance. Local Government is not aware of any well managed and regulated facilities in this category of prescribed premises that are causing significant public health and amenity issues with the current separation distances.
Outdoor covered, turned windrows 750 for manures, mixed food/putrescible & vegetative food waste; 250 for biosolids & 150 for green waste		outdoor covered, turned windrows	2,200 for up to 50,000t/y 1,900 for up to 35,000t/y 1,500 for up to 20,000t/y 1,100 for up to 12,000t/y 650 for up to 5,000t/y 400 up to 2,000t/y Above 50,000t/y then case by case	Outdoor covered, turned windrows 2,200 for up to 50,000 tonnes/year 1,900 for up to 35,000 tonnes/year 1,500 for up to 20,000 tonnes/year 1,100 for up to 12,000 tonnes/year 650 for up to 5,000 tonnes/year 400 up to 2,000 tonnes/year Above 50,000 tonnes/year, then case by case	Recommendation That the Department provides justification for the range of distances used for the different composting facilities. Recommendation Clarify why the type of material composted isn't considered as a risk factor.
Outdoor covered windrows with continuous aeration 500 for manures, mixed food/putrescible & vegetative food waste; 250 for biosolids and 150 for green waste		outdoor covered windrows with continuous aeration	1,600 for up to 50,000t/y 1,300 for up to 35,000t/y 1,100 for up to 20,000t/y 850 for up to 12,000t/y 600 for up to 5,000t/y 400 for up to 2,000t/y Above 50,000t/y then case by case	Outdoor covered windrows with continuous aeration 1,600 for up to 50,000 tonnes/year 1,300 for up to 35,000 tonnes/year 1,100 for up to 20,000 tonnes/year 850 for up to 12,000 tonnes/year	

				600 for up to 5,000 tonnes/year 400 for up to 2,000 tonnes/year Above 50,000 tonnes/year, then case by case	
Enclosed windrows with odour control 250 for manures, mixed food/putrescible & vegetative food waste; 150 for biosolids		enclosed windrows with odour control	1,000 for up to 50,000t/y 900 for up to 35,000t/y 800 for up to 20,000t/y 700 for up to 12,000t/y 550 for up to 5,000t/y 400 for up to 2,000 t/y Above 50,000t/y then case by case	600 for up to 50,000 tonnes/year 550 for up to 35,000 tonnes/year 500 for up to 20,000 tonnes/year 430 for up to 12,000 tonnes/year 350 for up to 5,000 tonnes/year 300 for up to 2,000 tonnes/year Above 50,000 tonnes/year, then case by case	
In-vessel composting with odour control 150 for manures, mixed food/putrescible & vegetative food waste; 150 for biosolids		in-vessel composting with odour control	600 for up to 50,000t/y 550 for up to 35,000t/y 500 for up to 20,000t/y 430 for up to 12,000t/y 350 for up to 5,000t/y 300 for up to 2,000t/y Above 50,000t/y then case by case	In-vessel or enclosed composting with odour control 600 for up to 50,000 tonnes/year 550 for up to 35,000 tonnes/year 500 for up to 20,000 tonnes/year 430 for up to 12,000 tonnes/year 350 for up to 5,000 tonnes/year 300 for up to 2,000 tonnes/year Above 50,000 tonnes/year, then case by case	
Waste disposal (putrescible landfill site (Class 2&3)) 500 for sensitive uses (subdivisions), 150 for single residences & an internal buffer of 35 from boundary	89	Putrescible landfill (more than 20 but less than 5,000 tonnes per year)	Gaseous, noise, dust, odour 1,000		Not included in the Guideline. Recommendation Clarify why this category has not been included in the Guideline, as odour can present a (small) risk from these facilities.

Table 1: Comparison of the EPA Guidance (2005), the withdrawn draft DER Guidance (2015), and the draft DWER Odour Guideline (2018).

Glossary

The Association supports the inclusion of a list of defined terms that reflects industry practice and terminology. Clarification is requested on the following terms:

- **Annoyance:** this definition is from a 2002 Paper, is there a more contemporary definition?
- **Fugitive emissions:** what is the origin of this definition?
- **Odour nuisance:** this definition is from a 2002 Paper, is there a more contemporary definition?
- **Screening distance:** this is currently identified as 'industry specific.' However, the specific screening distances of the draft Guideline relate to the category of prescribed premises, not necessarily the industry type. Page 16 of the Guideline suggests that this term originated from "*previous established guidelines in Western Australia.*" The Association has not been able to determine which finalised Guideline this refers to.
- **Sensitive receptors and sensitive land use:** these terms are used inter-changeably and do not link back to a specific definition. Clarification is requested on the source of this term.

References

The Association supports the inclusion of references to other documents, as this provides context on how the draft Guidelines were formulated.

4. Conclusion

The Association is confident that this document has the potential to assist operators of prescribed premises better navigate the Department's assessment process for odour emissions. Further clarification is required on how the draft Guideline will inform the Department's decision making framework, and how the Department's renewed approach to risk based assessment will operate in practice.

The use of screening distances has been met by the sector with a great deal of confusion. The reliance on screening distances to determine if a detailed analysis of odour is required, downplays the importance of other factors that influence this emission type. Additional requirements on industry must be implemented using a staged approach, accompanied by an appropriate level of support. Linkages to other documents in the regulatory reform framework must be reviewed once finalised, to ensure a consistent approach is used by the Department.

The Association looks forward to working with the Department as it further develops and implements the regulatory reform initiative.