

Environment Protection Authority

EPA Board

Local government consultation 2014 summary report

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1 Introduction

This report summarises the proceedings of the local government consultation convened by the Board of the Environment Protection Authority (EPA) on 16 July 2014. The agenda for discussion included: planning, co-regulation and local government as regulated.

The local government consultation is just one part of the EPA Board's stakeholder consultation program for 2014. This year, the Board separated the stakeholders into three discrete sectors (business, environment and community groups and local government) for consultation.

All of these discussions assist the EPA, its Board and the Minister for Sustainability, Environment and Conservation to assess the views of interested bodies on matters related to the operation of the *Environment Protection Act 1993* and protection of the environment.

The EPA Board acknowledges the important contribution of participants at the consultation. (A list of participants is on [Appendix 1](#)).

This consultation provided valuable feedback and a number of suggestions to be considered and actioned by the EPA.

Those present at the consultation agreed that:

- Information gathered from the consultation would be compiled into a report and distributed to participants.
- The Board would also put in place an annual process of engagement with senior local government members.
- The annual engagement session will identify any issues that can be further progressed between the EPA and Local Government Association (LGA) throughout the year.
- The EPA will work with local government to formalise a communication protocol in relation to environmental incidents.

2 Welcome and overview by the Presiding Member Mia Handshin

The EPA Board acknowledges that it is meeting on the traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders, past and present. The Board recognises and respects their cultural heritage, beliefs and relationship with the land, and acknowledges that they are of continuing importance to the Kurna people living today.

Ms Handshin, extended a welcome to attendees and introduced Board Members.

She explained that traditionally the Board had engaged with all stakeholder sectors at its annual round-table conference however this year's consultation program has an issue/sectoral focus in order to give Board Members the opportunity to meet with targeted sectors and hear direct feedback/insight into issues of strategic interest and importance.

3 Key issues, planning and EPA relationship with local government by Chief Executive Tony Circelli

Tony Circelli welcomed attendees, and provided a short presentation on the EPA's relationship with local government and current key issues from the EPA's perspective.

The key areas in Mr Circelli's presentation are covered below:

3.1 Clovelly Park site contamination

3.1.1 Background

In late 2008 groundwater contamination was identified on site by Mitsubishi; mid-May 2014 draft vapour risk report provided to site contamination auditor, EPA, SA Health and Housing SA; late May review of report by EPA and SA Health and public health risk identified requiring management in a timely manner; June 2014 discussions with senior Executive members of EPA, SA Health, Housing SA, on options for management and communications. A cross-government task force was established to manage implementation and communication. In the first instance, the EPA will chair the taskforce.

Ministerial, media and local government briefings have already taken place.

3.1.2 Council role in site contamination

There are a wide variety of approaches to the assessment of site contamination amongst planning authorities which can result in frustration and confusion in the development industry. The EPA's standing advice to planning authorities is to apply [Planning Notice 20](#) (PAN 20) guidance.

PAN 20 lists the activities with a high likelihood of resulting in contamination. The identification of 'potentially contaminating activities' (PCAs) warrants further investigation and requires considerable input from local government.

Councils provide access to its land for drilling bores (roadside verges, etc) and this assistance and cooperation is greatly appreciated.

3.1.3 Wider assessment area at Clovelly Park

- Total properties in the investigation area is 45 – 38 Housing SA properties including 6 vacant) and 7 private properties.
- A public health risk identified from trichloroethene (TCE) in soil vapour.
- The EPA and SA Health consider that work was required in a timely manner to prevent long-term exposure to TCE.

3.2 Local government relationship

The EPA is preparing position statements and guidelines to assist local councils and proponents to have a better understanding and clearer expectations and its assessment process on environmental matters.

The EPA is keen to improve its capacity building and general support for councils.

3.3 Site contamination framework

The EPA and Department for Planning, Transport and Infrastructure (DPTI) have been preparing a framework for the assessment of site contamination in the planning system. A focus group session is being held on 18 July 2014 to seek feedback on the proposed framework and obtain an understanding of the issues surrounding site contamination.

The EPA has been working on this framework since the LGA sought a review 2–3 years ago. The association has now been briefed, including on the associated mutual liability scheme on the framework.

The EPA will develop policy statements that articulate its position on key environmental issues for each aspect of its participation in the planning system. Guidelines will be prepared for EPA staff, planners (including planning consultants and planning authorities) and developers.

The EPA will build relationships with, and support planning authorities and planners to understand and better consider its policy positions on key environmental issues.

3.4 Council as co-regulator

3.4.1 Local Nuisance Bill

This project has recommenced following the March state election and work is underway incorporating feedback from the LGA on the drafting instructions that were consulted on in late 2013. Further meetings with the LGA and other stakeholders will occur once the drafting instructions have been revised.

3.4.2 Environment Protection (Water Quality) Policy 2003

This policy is used by local government to enforce stormwater pollution controls and to manage their own general works activities, wastewater systems, composting works, waste depots or managed aquifer recharge schemes. A revision of this policy is nearing completion and is likely to be in place by the middle of 2015.

3.4.3 Interim environment protection policy on solid fuel heaters

This policy will regulate retail and installation of heaters, fuel moisture and excessive smoke compliance standards. Consultation has occurred with the Adelaide Hills Council, District Council of Mount Barker and City of Mount Gambier. It is anticipated that the policy will come into place before the end of winter 2014.

3.4.4 Pressures and changing landscape

- Site contamination – planning system improvements, community consultation
- Media understanding/engagement is critical – strong communication that the EPA and councils are working together
- Sharing knowledge and expertise, eg cameras from the Illegal Dumping Unit (IDU) are used to detect illegal dumping activities; council staff attending EPA training programs; sharing the concept of how to be good regulators; the right skills and resources needed. More importantly is how the EPA and LGA will operate, work with each other, communicate and share information.

4 Feedback from Local Government Association Chief Executive Officer Wendy Campana

Wendy Campana acknowledged and agreed with the key issues.

Her comments included:

- The Local Nuisance Bill has been an ongoing issue with local government. Councils continue to be concerned about cost shifting. It would appear that many officers in councils are dealing with these issues but their elected bodies and CEOs may not be aware. The data from the EPA would suggest this to be the case. A different approach is needed to resolve the issue.
- Clovelly Park site contamination—LGA has been involved—she is a member of the State Emergency Management Group. She is very disappointed that the Clovelly Park site contamination issue has become political, however in hindsight, maybe there was an earlier opportunity to engage local government.
- Site contamination – we need to understand where other contaminated sites are located and then there needs to be a mature public conversation;
- Green Industries proposed to replace Zero Waste will present some issues for the EPA and local government, eg using recycled products (road products where asbestos is an issue). The EPA needs to work closely with this new body and local government on this issue.
- Planning – council seeks advice and feels it is not getting black and white answers from the EPA— ‘shades of grey’ make councils nervous.

5 Discussion on planning, co-regulation and local government as regulated

Points made during discussion.

5.1 Site contamination

- Council priority is their community's health and wellbeing—very disappointing that politics has taken over—Marion City Council has had great support from, and communication with the EPA.
- There is need for reflection because there is a perception in the community about the timing of sharing information; should councils have been advised sooner? Information needs to be channelled to councils as soon as possible.
- A set of protocols need to be developed and followed—this will prevent future media criticism; the EPA's protocol is in place but needs to be formalised with local government.
- Elected council officers want to receive information straight from the agency, not always via their CEOs.
- Communications need to reflect that people only want to know the facts when it impacts them.
- Local government can play a key role in helping to manage this issue and its impact locally—bring 'everyone into the tent' and have frank talks to individuals appealing to their ethical sense.
- The Port Adelaide Enfield Council set up the Port Adelaide Environment Forum as an opportunity for people to come together, and actively and effectively share knowledge and information. Other councils were encouraged to talk to the council about that model—it has been going for at least 20 years.

5.2 Planning

- Feedback from Marion City Council's planning team on planning approvals is that there are still a lot of 'grey' areas in EPA advice, the council needs more certainty in responses.
- Councils are put under pressure by developers. Developers walk away and council is left with the problem (although the liability stays with the developer).
- The Urban Development Institute of Australia is putting a great deal of pressure on the EPA and councils—we all want the same thing but we don't have the solution yet to deliver on an ideal risk-based approach.
- It is about the level of risk and who makes that judgment. Consultants could report on low risk issues and auditors report on the higher risks.
- Councils will generally take the default position of being conservative (with regard to the risk-based approach).
- From a planning perspective, the government (Renewal SA) is repeating past mistakes on Le Fevre Peninsula. A new housing development is being built next to a train line and a sulfuric acid work site.
- The EPA does not get involved in many of the planning decisions in South Australia.

5.3 General comments

- Yorke Peninsula Council's dealings with the EPA have been very good.
- Councils have a lack of knowledge/expertise with mining issues. The Yorke Peninsula Council has set up a community consultative group.
- Councils are ill-experienced in scientific/technical issues—both regionally and in the metropolitan area.
- Independence of government statutory bodies is very important, particularly the EPA.
- The LGA Board will be meeting to adopt some principles with regard to the review of SA government boards and committees: what is valuable; efficiency/red tape; appropriateness of independence and what this means.

- District Council of Mt Barker specific issues – planning team reports there is ambiguity of advice; sediment around the hills; biggest council provider of wastewater services in the state (investing in 20,000 people in the next 10 years). As regulations change, who will bear the risk in the future? With regard to storage of treated wastewater, the council wants to explore aquifer storage and wishes to discuss this issue with the EPA.
- Very positive, sitting around the table having this discussion.

5.4 Conclusion

Ms Handshin concluded by saying that the Board will put in place an annual process of consultation with local government, allowing for a longer period in future for focused discussion with a pre-agreed agenda.

Mr Circelli said that he will continue to consult with Ms Campana regarding areas to collaborate using the annual engagement sessions to advise this agenda. She can then consider how best to relay relevant information to councils.

He wants to build relationships and talk more with councils. There are CEO network opportunities in both metropolitan and regional areas—these are good forums to discuss issues like the site contamination/environment communication protocol.

Mr Circelli reported that the EPA is endeavouring to improve its presence in the regions.

Appendix 1 Participants

| First name | Surname | Organisation |
|------------|----------|---|
| Ray | Agnew | Mayor, Yorke Peninsula Council |
| Andrew | Cameron | CEO, Yorke Peninsula Council |
| Wendy | Campana | CEO, Local Government Association |
| Sam | Green | Acting CEO, City of Playford |
| Wally | Iasiello | Acting CEO, Port Adelaide Enfield Council |
| Charles | Mansueto | CEO, District Council of Mallala |
| Vinnie | Mifsud | Director, City of Marion |
| Greg | Parker | General Manager Council Services, District Council of Mt Barker |
| Peter | Peppin | CEO, City of Whyalla |
| Trevor | Smart | CEO, District Council of Grant |

EPA representatives

| First name | Surname | Organisation |
|------------|-----------|----------------------------------|
| Tony | Circelli | Board Member and Chief Executive |
| Ros | DeGaris | Board Member |
| Mia | Handshin | Presiding Member |
| Helen | Macdonald | Board Member |
| Mark | Withers | Board Member |