

30 October 2014

Please quote: 2902390ND:jw

Dr Bill Freeland
Chair
Northern Territory Protection Authority

Email: ntepa.consult@nt.gov.au

Dear Dr Freeland,

Issues Paper – Review of the Waste Management and Pollution Control Act and the Litter Act

Thank you for your correspondence dated 15 September 2014 inviting the City of Darwin to provide comment on the Issues Paper – Review of the Waste Management and Pollution Control Act (WMPC Act) and the Litter Act.

Council welcomes the opportunity to provide initial comments against the Issues Paper developed by the NT EPA. The comments provided are based on the information provided with the Issues Paper. Some questions posed in the Issues Paper require more information than has been made available in the Paper and as such the response is limited.

Given the important role that local government plays in the management of waste City of Darwin proposes that the NT EPA brief councils more directly on the process and proposed changes to the Act(s). Council invites the NT EPA to present to, and engage with the City of Darwin, at a Council meeting.

As a result of Council meeting cycles, this letter and response submission will be placed before Council at its next meeting on 11 November 2014 for endorsement. Should this letter or the submission be varied by Council, you will be advised accordingly. Council requests that this submission remain confidential until an endorsed letter is sent.

Council commends the NT EPA for conducting this review of the WPMC Act and the Litter Act. The key issues underpinning the success of this review are the economic viability of alternative options and a holistic approach to education of industry, government and the community.

If you have any further queries please do not hesitate to contact Nadine Douglas on 8930 0417.

Yours sincerely



LUCCIO CERCARELLI
GENERAL MANAGER INFRASTRUCTURE

Submission Form for Comments and Feedback

Review of the Waste Management and Pollution Control Act and Litter Act

Submissions close: Monday 27 October 2014, 5pm

Name:	Nadine Douglas		Email:	darwin@darwin.nt.gov.au
Organisation (if applicable):	City of Darwin	Telephone:	8930 0417	
Address:	GPO Box 84, Darwin 0801			

Your comments will be publicly available.

Mark the box here if you do not want your comments to be made publicly available. – Until an endorsed version is received from Council.

Mark the box here # if you do not want your identity to be made publicly available.

Section	Comment
2 WMPC Act 2.3.1 <i>Q1</i> Should the Act contain explicit provisions to ensure that it applies to activities conducted outside the Territory that cause damage to the Territory's environment?	<ul style="list-style-type: none"> City of Darwin welcomes provisions in the WMPC Act to address the environmental risk of activities conducted outside the Territory. Shoal Bay Waste Management Facility is the only licensed landfill in the top end of the Territory, and is vulnerable to activities that are conducted outside of the Territory, including off-shore. Council does question how a Territory Act could enforce explicit provisions outside of the Territory jurisdiction. Council believes that there needs to be clear engagement and communication with other

Please complete the form and send it via one of the following by no later than *Monday 27 October 2014, 5pm*:

Email: NTEPA.Consult@nt.gov.au

Post: NT EPA, GPO Box 3675, Darwin NT, 0801

Privacy: Your personal information will be used for the purpose of collecting and collating comments received on the Issues Paper. The NT EPA is subject to the Information Act and its Regulations. Information will not be disclosed to a third party, unless required by law or otherwise stated.

Section	Comment
<p>2.3.2 Q2 Should the Northern Territory Government incorporate the waste management hierarchy into the Act? How could the hierarchy be used to encourage the minimisation of waste generation and/or improvements in reuse and recycling?</p>	<p>states and territories for an agreed joint approach to deal with this matter.</p> <ul style="list-style-type: none"> Local government is limited in its control over waste generation and supports the role of NT EPA in managing waste at source, including better implementation of national stewardship and packaging control mechanisms Incorporation of the waste management hierarchy into the Act provides a tool for life cycle analysis, to identify the true costs and benefits in managing waste. Waste management should focus on the minimisation of waste at the source Reduction in materials intensity results in reduction of material being disposed Council is developing its own Waste Management Strategy and aims to incorporate a waste management hierarchy through education and waste diversion measures The most preferable approach involves avoidance of waste generation; by avoiding excessive use of materials at the top of the hierarchy, the final disposal will be costs would be reduced.
<p>Q3 How important is language in encouraging reuse and recycling? Would 'materials' or 'resource' management or similar phrasing change your perceptions about, and approach to, reuse and recycling?</p>	<ul style="list-style-type: none"> Perceptions around waste should be assessed on a wholistic approach from the manufacturer through to the community. Waste minimisation should focus on the behaviour of producers and consumers, rather than specific language. Within the legislation, language that is consistent with national standards and that of other jurisdictions is preferable, however communication with the public may benefit from different language styles depending on the current community perception and the target audience. The language required may evolve over time as the community becomes more aware and educated in reuse and recycling.
<p>Q4 What may be some of the impediments or hindrances to improving reuse and recycling in the Northern Territory? How could these impediments or hindrances be addressed?</p>	<ul style="list-style-type: none"> The main impediment to improved reuse and recycling in the Territory is the lack of local processing facilities region, historically due to the small and isolated population of the region. Significant economic growth in the North means that economies of scale are shifting. Aside from Council's kerbside recycling service and the recycle shop at the Shoal Bay Waste Management Facility, minimal alternatives for reuse and recycling services are available in the region.

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<p>5. What types of waste management activities should require a licence?</p>	<ul style="list-style-type: none"> • To further extend the services currently provided by Council more economically viable options (to minimise waste production, recycle and recover valuable materials) need to be provided by industry and government. • Incomplete data hinders commercial expansion into reuse and recycling options in the Territory. Council suggests a feasibility study into the actual impediments and hindrances to improved reuse and recycling. <p>Schedule 2 of the regulations should be changed to reflect:</p> <ul style="list-style-type: none"> • Listed waste activities that require licencing are in line with those required in other jurisdictions • Risk assessment of listed waste are: <ul style="list-style-type: none"> ○ Based on environmental and public health risks ○ Publically documented ○ Used for determining the treatment used in, and the location of waste disposal facilities • Activities that require a licence within the Act should be determined on a risk based and assessed in terms of potential environmental harm as well as public health risk as a minimum.
<p>6. How can we improve our knowledge about the type and amount of wastes being generated, reused and recycled in the Northern Territory?</p>	<ul style="list-style-type: none"> • Council has data and information for Shoal Bay Waste Management Disposal Facility, but this is the end point for waste and other than listed waste is only recorded against the account holder, not from the source location. This is publicly available information. • Council undertakes kerbside waste audits to determine the nature of waste streams in the community. • The NT EPA may like to work with Council to better understand these waste streams and use this as a guide for determining consistent definitions for waste types to provide a better grounds for accounting of waste • A significant improvement to the knowledge of the types and amounts of waste generated would be obtaining more information from current suppliers and operators. • As discussed above with regard to the use of a waste management hierarchy, it is important to reduce the focus on end of life and disposal of waste and look at the generation of waste upstream • Consider reporting requirements under licences

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<p>2.3.2.1 Waste levies 7. Should the Territory Government consider imposing levies? To what types of activities or wastes would the levy be applied? 8. What other Infrastructure and Industries would improve opportunities for recycling and reuse? Would these be required before a levy could be imposed?</p>	<ul style="list-style-type: none"> • The application of levies should be guided by the waste management hierarchy, with a holistic view to waste management and pollution control. • Limited alternatives for waste recycling and treatment exist in the Territory. Introduction of an end of life levy implies alternatives are available. Economic and illegal dumping repercussions of introduction of a levy must be taken into consideration. • Cost effective alternatives must be in place in order for a levy system to occur, and the alternatives required would need further knowledge of waste streams and the viability of alternative options. • Any levy collected by the NT EPA should be quarantined from general revenue and direct towards improved resource recovery options including waste education. • Council's experience with resource recovery and recycling has shown that concrete crushing and tyre shredding are two locally emerging industries that could be enhanced through financial incentives imposed by the NT EPA.
<p>2.3.3 Improving contaminated sites management 9. Should the management of sites be given a greater focus in the Northern Territory? 10. How do you suggest we approach management of potentially contaminated sites?</p>	<ul style="list-style-type: none"> • A greater focus on contaminated sites should include sites that have the potential to become contaminated. • Council supports the development of methods to assist the management of potentially contaminated sites. Such methods could include developing a register of contaminated sites, the use of bonds as part of the development application or licencing process, and allowance for remediation costs to be paid at the start of a contract prior to approvals being granted. • Council would require additional detail regarding this in order to comment further.
<p>2.3.4 Reporting incidents 11. How can we improve the WMPC Act to ensure that the right incidents are reported by the right person at the right time?</p>	<ul style="list-style-type: none"> • Council supports the improvement of incident reporting, however it is not just the incident and person reporting that is of importance, but also the subsequent action and closure of the incident. • The WMPC Act should include powers that prevent incidents from occurring rather than rely solely on after the fact prosecution, require any land development to have a register of risks and the NT EPA should monitor such risks accordingly.
<p>2.3.5 Addressing discharges and emissions 12. How do you suggest we approach management of emissions</p>	<ul style="list-style-type: none"> • Council supports the current practice of licences for the management of emissions and discharges. Regular auditing of licensed premises and providing guidance on improving environmental management practices may lessen the frequency and impacts of emissions and discharges to the

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<p>and discharges to the Northern Territory environment?</p> <p>13. What are the benefits or costs associated with your suggested approach</p> <p>14. How effective is the Northern Territory's current regulatory regime in managing emissions and discharges?</p> <p>15. Are there opportunities to more closely align the management of emissions and discharges with the risk posed by the emission or discharge?</p> <p>16. What types of emissions and discharges should be managed under the WMPC Act?</p> <p>17. How can we best manage diffuse pollution sources?</p> <p>18. How effectively can your proposed approach to the management of emissions and discharges manage diffuse pollution sources?</p> <p>19. How can we ensure appropriate management of a site continues once an activity has ceased?</p>	<p>environment.</p> <ul style="list-style-type: none"> Improvements to community education for commercial operators could enable reductions of waste and pollution. City of Darwin recently provided comment on the NT EPA Draft Stormwater Strategy. Comments regarding discharge and emissions in that submission are relevant here also; for example, consideration should be given to the type and nature of pollutant, as well as the source. It is not only important to control pollutants from sources such as building sites, stormwater discharges, dumping, parks, homes, golf courses and roads, but emphasis should also be placed on controlling pollutants from industrial sites, both within Darwin Harbour itself and the various industrial areas within the Harbour catchments. Management improvements should also be developed for these industrial land uses, which are considered to pose a significant risk to the health of Darwin Harbour if not managed correctly. Council suggests a more holistic approach to emissions and discharges. This may require research beyond the current review of the WMPC Act (consider the Draft Stormwater Strategy and the Planning Act). Opportunities to align discharges with risk management depends on the risk framework that is used and Council recommends an assessment against environmental and public health risks. Management actions within the WMPC Act should be developed further to include emissions and discharges that are not related to a scheduled activity. The types of discharges and emissions should include anything that has the potential to cause environmental harm, which would need to be determined by the NT EPA. Management of diffuse pollution sources can be guided by incorporating the waste management hierarchy into the Act. This could provide the structure to further prioritise and guide efforts to manage waste including diffuse pollution sources. The effectiveness of any management approach depends on the ability to implement, monitor and act on emissions and discharges within the relevant Act(s). A risk management strategy should be incorporated into licence requirements, or the WMPC Act as required. Effective control during and after the operation on a site would assist in ensuring the management of the site is appropriate

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<p>2.3.6 Improving enforcement</p> <p>20. What compliance and enforcement tools should be included to ensure that the WMPC Act can be appropriately enforced?</p> <p>21. Do you have recommendations on the types of offences that should be included in the WMPC Act?</p> <p>22. How could the offences be improved to ensure that the WMPC Act can be appropriately enforced?</p> <p>23. What sanctions and remedies should be available under the WMPC Act?</p> <p>3 Litter Act</p> <p>3.3.1 Advertising material</p> <p>24. Is littering a problem in your community?</p> <p>25. As a municipal or shire council, do you want littering provisions to apply within your area of responsibility?</p> <p>26. Is the placement of advertising material a problem in the Territory? Is the current regulation sufficient? Is additional regulation required?</p>	<ul style="list-style-type: none"> The WMPC Act should include relevant regulations and enforcement measures to ensure it can be enforced. A tiered approach with penalty levels in accordance with the relevant level of offence, recognising the potential risk between individual committing an offence to a large company committing an offence. This can be guided by a risk management framework. The use of injunctions should be incorporated into the act to enable the NT EPA to immediately require a party to do, or refrain from doing, a particular activity All actions that could be considered to create environmental harm should be included in the WMPC Act, and enforced accordingly. In particular, Council suggests the Environmental Nuisance Offence, particularly for illegal dumping and abandoned vehicles, and noise pollution The legislation needs to be clearly defined, concise and unambiguous given the potential for legal challenge. Offences should also align with the waste management hierarchy and any risk frameworks to improve clarity. For example, environmental harm is a consequence of pollution therefore the proof that pollution has occurred is sufficient to determine that environmental harm has occurred. Council considers that sanctions and remedies under the WMPC Act should be defined and clear to enable the appropriate work to occur. The City of Darwin currently has by-laws addressing litter, which is an ongoing issue across the Darwin region. Any legislation in regards to litter should support the current by-laws in place.

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<p>3.3.2 <i>Illegal dumping</i> 27. <i>Would provisions such as those in Queensland and Tasmania which make it easier for the public to participate in litter enforcement activities assist to manage illegal dumping and litter?</i> 28. <i>Should the Northern Territory 'deem' certain members of the public to be responsible for litter?</i> 29. <i>What other actions or incentives could be implemented to reduce the incidences of illegal dumping?</i></p>	<ul style="list-style-type: none"> • Council considers that a holistic approach to education within the community could assist to reduce the incidences of illegal dumping. • Council supports the Queensland and Tasmania approach to incident reporting by third parties because this approach is already used in relation to illegal dumping and abandoned vehicles. For more information and guidance in this approach see: http://www.darwin.nt.gov.au/live/parking-traffic-and-transport/abandoned-vehicles
<p>4 <i>Environment Protection Acts</i> 30. <i>Should the Northern Territory consider development of a broad environment protection similar to other jurisdictions? What might be advantages or disadvantages of adopting an environment protection act over issue specific legislation?</i> 31 <i>In addition to matters currently contained in the WMPC Act and Litter Act, what other matters could be included in any environment protection act?</i> 32 <i>Are there matters currently contained in the WMPC Act or Litter Act that could be better managed through an alternate mechanism, such as policy, rather than through legislation?</i></p>	<ul style="list-style-type: none"> • Broad environmental protection legislation similar to those of other jurisdictions could take the pressure off the <i>WMPC Act</i> to cater for broad environmental protection and instead focus in on improving waste management for the priorities of improved economics etc. • Broad environmental protection legislation would reduce inconsistencies between individual Acts that deal less directly with matters of environmental harm • Waste legislation could be designed to focus on the life cycle of waste, and the management of waste as a concurrent but separate matter to environmental protection. • Anything that has the potential to cause environmental harm should be included in the appropriate Act. • All matters should be clearly defined within each Act to ensure clarity of responsibilities and enforcement • Policies could assist with providing context and additional information to the Acts; however a Policy cannot replace an Act where the issue requires legislation to allow for regulation and enforcement.

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<p>5 Local Government 33. Is there an increased role for local government in the regulation of waste and pollution in the Territory? What is that role?</p>	<ul style="list-style-type: none"> • Council does not support local government having an increased role in the regulation of the relevant Acts. • Council will continue to apply its own enforcement of by-laws and application of Waste Management Strategy outcomes to improve the community's understanding of and practices in relation to waste and pollution. • Council does acknowledge that in more remote communities many local government bodies deliver services on behalf of other levels of government. If such councils did see fit to act on behalf of the NT EPA as Authorised Officers under the Act appropriate funding mechanisms to sufficiently fund such responsibility must be incorporated into any such role.
<p>6 Improving Community Involvement 34 How could enhanced community involvement improve the Northern Territory's management of waste and pollution and improve environmental outcomes for the Territory? 35 Should the WMPC Act include requirements for the NT EPA to seek public comments on the application for a licence or the proposed conditions of a licence? If so, how could an efficient and effective process operate? 36 Who should be allowed to appeal a decision made under the WMPC Act? What should be the basis for that appeal?</p>	<ul style="list-style-type: none"> • Enhanced community involvement could assist in improving waste and pollution management, and delivery better environmental outcomes for the Territory, through instilling personal responsibility, increased vigilance, community support and higher community expectations. • Not every licence requires public comment, but licences over a certain volume or those that deal with particularly hazardous wastes could be relevant. The incorporation of the waste management hierarchy could guide this process. This could be managed in the same manner that environmental approval and EIS are currently handled. • Anyone who believes that they are affected by a decision under the WMPC Act (provided it falls within the category of decisions that are 'reviewable' in a similar way to what is required under Section 227 of the Local Government Act) should have the right of appeal.