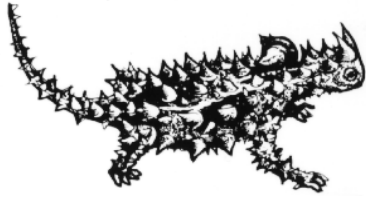


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Draft Guideline: Recommended Land Use Separation Distances

The Arid Lands Environment Centre (ALEC) is the peak environmental organisation working to provide for the healthy futures of people and country in central Australia. ALEC has been operating for over 37 years across a broad variety of environmental issues, including environmental assessment and regulation. ALEC is engaged in environmental assessment and development policy reform to ensure that ecologically sustainable development is applied and risks to environmental and human health are prevented.

It is important that proponents of a development are aware of their responsibility to ensure atmospheric emissions do not disturb other land uses and do not release unacceptable levels of pollution that would pose an environmental health risk. In principle the guidelines are supported, but there are a few limitations on the application of the guideline that should be applied.

Application of the guideline

These guidelines should not be applied in such a way that leads to the approval of otherwise inappropriate development. Compliance with the guideline should not be taken as a sufficient condition for approval, but rather a necessary checklist for approval. Contrary to what appears to be implied in the draft guideline, atmospheric pollution is not caused by land uses being too close. Land use separation guidelines are beneficial in their ability to prevent conflict between adjacent land uses, disperse pollution and inform planning processes. Increasing the distance between users will not reduce pollution, it will allow for dispersal and reduce the chances of such pollution becoming a nuisance or risk. Compliance with this guideline should not preclude the possibility of implementing appropriate monitoring and management strategies for atmospheric emissions.

Land Use Separation Guidelines should not be considered or applied as a replacement for pre-existing environmental responsibilities. The guidelines should function to reduce conflict but will not be able to reduce pollution or address contamination. The following examples of the intended application are not supported:

- Guideline compliance should not constitute fulfillment of a general environmental duty.
 - Guideline compliance should not be a defence for a contravention of the *Waste Management and Pollution Control Act*.
 - Guideline compliance should not demonstrate reasonable diligence in regard to pollution offences.
 - Compliance should not be used to preclude the taking of remedial action that is otherwise necessary.
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ALEC does not support the operation of the guideline that would weaken pre-existing environmental duties to prevent environmental contamination or pollution nuisance. The utility of this tool lies in preventing conflict, it is not able to identify, prevent or monitor sources of environmental contamination. It is also of concern that compliance with this guideline was suggested to reduce the need to invest in environmental remediation. If there are contamination issues, remedial action should be taken regardless of whether there is conflict with other land uses or guideline compliance. Assessment of remedial action should be independent of the existence of a conflict with adjacent uses or compliance with this guideline.

Sensitive Land use

The definition of “sensitive land use” is ambiguous and uncertain. It is not clear in what areas of land the protection of human and environmental health is of a particular concern, or in what areas human and environmental health is not a priority. Sensitive land uses should also include areas of high conservation significance or other ecologically sensitive areas, such as wetlands or threatened species habitat. “Sensitive uses” should also incorporate sacred sites and protected Aboriginal areas. It is not clear how this process will be implemented in the instance a proponent is unsure about the sensitivity of an adjacent land use.

When considering the separation distances, it would be appropriate to expand the area of effect beyond a radial pattern. Air pollution and contamination will be dispersed according to site specific conditions. It is therefore suggested that the distances can be extended with discretion. This discretion should be informed by local meteorological data, such as prevailing wind conditions.

Conclusion

The guidelines are supported in so far as they can reduce conflict between competing land uses, protect sensitive areas and inform land use planning. However, there are significant issues with the application and intended use of the separation distances in purporting to achieve environmental outcomes. ALEC is critical of the potential positive environmental outcomes through this guideline. The guideline should not be used in such a way that is seen to reduce environmental contamination as it is not designed to address the point source of contamination or causes of a pollution nuisance. Compliance with this guideline should be not be able to demonstrate due diligence or compliance with an environmental duty of care as it is not preventing harm, merely redirecting it. Separation distances should operate in complement to and independently of pre-existing environmental regulations.