



Environmental Protection Authority

Guidance for the Assessment of Environmental Factors

(in accordance with the
Environmental Protection
Act 1986)

**Linkage between EPA
Assessment and
management strategies,
policies, scientific criteria,
guidelines, standards and
measures adopted by
National Councils**

No. 34

Final

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Western Australia

Foreword

The Environmental Protection Authority (EPA) is an independent statutory authority and is the key provider of independent environmental advice to Government.

The EPA's objectives are to protect the environment and to prevent, control and abate pollution. The EPA aims to achieve some of this through the development of environmental protection guidance for the environmental impact assessment (EIA) of proposals.

In 1992, when the Environmental Protection Act 1986 was reviewed, a key sentiment expressed related to the uncertainty of outcome of the EIA process. The EPA addressed this concern by identifying priority factors for which EPA guidance and position statements needed to be developed to establish the grounds for judging the environmental acceptability of developments in advance of project planning and design.

This document is one in a series of documents being issued by the EPA to address this concern. The series is written to assist proponents, consultants and the public generally to gain additional information about the EPA's thinking in relation to aspects of EIA process. The series provides the basis for EPA's evaluation of and advice on development proposals subject to EIA.

This document offers guidance with regards to the linkage between EPA assessment and management strategies, policies, scientific criteria, guidelines, standards and measures adopted by National Councils.

The document also provides some background on the subject, guidance in relation to assessment and concludes with some administrative matters.

The guidance, as presented in section 4.2 of the document is:

- where the National Environment Protection Council (NEPC) has made National Environment Protection Measures (NEPM), the EPA's advice to the Government would be consistent with any NEPM formally adopted by the State;
- where the Council of Australian Governments (COAG), the Australian and New Zealand Environment & Conservation Council (ANZECC) (formerly known as AEC, ANZEC) or the National Health & Medical Research Council (NH&MRC) has declared non-statutory management strategies, policies, scientific criteria, guidelines and standards (measures) through treaty with the Western Australian Government (Appendix 1), the EPA's advice to the Government will be consistent with the spirit of the treaty and declaration wherever possible. Notwithstanding this, the EPA notes that some of these documents were published some time ago. Accordingly, the EPA reserves the right to use more recent or comprehensive information as it comes to hand (for example, recent guidance documents published by agencies such as the Victorian EPA, New South Wales EPA, the Queensland Department of Environment and Heritage and World Health Organisation maybe used instead of the NH&MRC's guidelines). To this end:



- the EPA will adopt, wherever appropriate, these non-statutory declarations as its benchmarks for assessing new proposals, although proponents are encouraged to propose better than benchmark performance where possible. Notwithstanding this, proponents will be offered natural justice rights as outlined in Section 8;
- where the non-statutory declarations offer flexibility with respect to local conditions and circumstances, it is the responsibility of the proponent to propose and substantiate its own approach and to argue the case as to why declarations of the COAG, ANZECC or NH&MRC should not be used as the benchmark for assessing the proposal in question;
- The EPA will also add to this guidance statement, new or revised documents which are published in the future by National Councils; and
- the current list of National Council documents used by the EPA during EIA is given in Appendix 1.

I am pleased to release this document, termed Final, which will be used by the EPA during the assessment of any new proposal which has elements covered by ANZECC and NH&MRC or NEPC.

Final has the status of EPA signing off the statement and publishing it although it will be updated regularly as new documents come to hand.



Bernard Bowen
CHAIRMAN
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Guidance No. 34

Guidance for Proposed Projects which may use Management Strategies, Policies, Scientific Criteria, Guidelines, Standards and Measures adopted by National Councils

Keywords: National, COAG, ANZECC, NH&MRC, NEPC, NEPM, management, strategies, policies, scientific criteria, guidance statement, standards and measures.

1. PURPOSE

The purpose of this guidance statement is to state the EPA's position for the factors subject to environmental impact assessment (EIA) for which National Councils' have adopted environmental positions.

2. OBJECTIVE

The objectives of this guidance statement are:

- (a) to protect the environment as defined by the *Environmental Protection Act 1986* (EP Act 1986) with focus on human health and the environment;
- (b) to address the factor of uncertainty of outcome of the EIA process as raised in 1992 during the review of the EP Act 1986;
- (c) to ensure that proper recognition is given to State and National policy positions to which both jurisdictions are signatories; and
- (d) to present to developers, proponents and the general public, the Environmental Protection Authority (EPA) position on the National management strategies, policies, scientific criteria, guidelines, standards and measures upon which the Government of Western Australia has signed-off, to ensure consistency and transparency in decision-making on these matters. These criteria, guidance statements (and standards) are set out in documents such as those examples given in Appendix 1. Whilst some of the documents are presently draft documents, they will be adopted by the EPA for guidance when finalised.

3. INTRODUCTION

There are four major national bodies outside Western Australia which have a significant influence on management strategies, policies, scientific criteria, guidelines, standards and measures for environmental protection in Western Australia. They are the Council of Australian Governments (COAG), the Australian and New Zealand Environment & Conservation Council (ANZECC), the National Environment Protection Council (NEPC), and the National Health & Medical Research Council (NH&MRC). Whilst referring to these bodies as major agencies which have a significant influence on Western Australian environmental protection, the EPA is also aware of other bodies such as the Australian Local Government Authority (ALGA), the Agricultural Resource Management Council of Australia and New Zealand (ARMCANZ), the Australian and New Zealand Food Authority (ANZFA), and the Water Resources Council of Australia (WRCA), which influence environmental protection in Western Australia. Additionally, other State agencies such as the Victorian and New South Wales EPAs, international agencies such as the World Health Organisation (WHO), and Australian Standards also influence environmental protection in Western Australia. In some cases, guidance documents published by these agencies contain more recent and comprehensive information and are also used by the EPA during EIA.

COAG is a non-statutory Ministerial Council consisting of first Ministers from the Commonwealth, States and Territories.

ANZECC is a non-statutory Ministerial Council consisting of the Environmental Ministers from the Commonwealth, New Zealand, States, Territories with Papua New Guinea holding observer status.

NEPC is a statutory Ministerial Council consisting of nominated Ministers from the Commonwealth, States and Territories. All current members are Ministers for the Environment. All these jurisdictions have legislation establishing the NEPC.

NH&MRC is a Council of experts appointed by the Commonwealth Government as an advisory body on human health matters. Some of these matters overlap with environmental matters especially in areas relating to drinking water and wholesome food.

The Western Australia Government is represented on all of the above bodies. The Western Australian Government is normally a signatory to the final decisions made by these bodies. Whilst the decisions of ANZECC and NH&MRC are non-statutory decisions, sign-off by each of the representatives infers endorsement of the outcomes.

Protocols are in place to enable the NEPC to declare National Environment Protection Measures (NEPMs) to which a State is obliged to report on implementation of the NEPMs within its jurisdiction. However, before the NEPC makes such a measure it must go through a rigorous consultation stage and ultimately have a least two-thirds of the members agreeing to the Measure.

During the development of National Environment Protection Measures, the NEPC consults on the following basis:

1. National: peak Non-Government Organisation (NGO) groups are represented on an NGO Advisory Group established for each NEPM. The purpose of the group is to act as a two-way communication channel, not a consensus body; and
2. Jurisdictional (eg State): each jurisdictional government consults with key stakeholders (government and non-government) within its jurisdiction.

Prior to the release of a draft NEPM for public review, members of NEPC come to the table with a 'whole-of-government' view (usually Cabinet agreement). A similar provision applies when Council 'makes' a NEPM. Thus a NEPM will have been endorsed by each government (assuming unanimous voting). However, as pointed out above, it is possible to make a NEPM if at least a two-thirds of the members vote in favour of it.

In order for Western Australia to meet its obligations to the above agencies and for the EPA to give its best advice to Government, the EPA has developed this guidance statement. In doing so, the EPA recognises that the environmental approach taken by ANZECC and NH&MRC is sufficiently flexible to allow each jurisdiction to also consider local circumstances and conditions in its decision making. Nevertheless, every endeavour will be made to adopt the spirit of the ANZECC and NH&MRC approaches, wherever possible.

4. GUIDANCE

4.1 General

The objective of the EPA is to use its best endeavours to protect the environment and prevent, control and abate pollution. In doing this, the EPA endorses the spirit of existing and future ANZECC and NH&MRC management strategies, policies, scientific criteria, guidelines and standards and implementing National Environment Protection Measures which the Government of Western Australia has agreed to through treaty or statute. To achieve this objective the EPA applies three complementary tests when assessing new proposals :

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- (a) all reasonable and practicable measures should be taken to comply with management strategies, policies, scientific criteria, guidelines, measures and standards to which the State of Western Australia is bound by treaty;
 - (b) all proposals should comply with management strategies, scientific criteria, guidelines, measures and standards to which the State of Western Australia is bound by statute; and
 - (c) other requirements as determined by the EPA.

4.2 Guidance for New Proposals

The following guidance will be used by the EPA during the assessment of any proposal which has elements covered by COAG, ANZECC and NH&MRC management strategies, policies, scientific criteria, guidelines and standards and NEPC National Environment Protection Measures:

- where the National Environment Protection Council (NEPC) has made National Environment Protection Measures (NEPM), the EPA's advice to the Government would be consistent with any NEPM formally adopted by the NEPC;
- where the Council of Australian Governments (COAG), the Australian and New Zealand Environment & Conservation Council (ANZECC) (formerly known as AEC, ANZEC) or the National Health & Medical Research Council (NH&MRC) has declared non-statutory management strategies, policies, scientific criteria, guidelines and standards (measures) through treaty with the Western Australian Government (Appendix 1), the EPA's advice to the Government will be consistent with the spirit of the treaty and declaration wherever possible. Notwithstanding this, the EPA notes that some of these documents were published some time ago. Accordingly, the EPA reserves the right to use more recent or comprehensive information as it comes to hand (for example, recent guidance documents published by agencies such as the Victorian EPA, New South Wales EPA, the Queensland Department of Environment and Heritage and World Health Organisation maybe used instead of the NH&MRC's guidelines). To this end:
 - the EPA will adopt, wherever appropriate, these non-statutory declarations as its benchmarks for assessing new proposals, although proponents are encouraged to propose better than benchmark performance where possible. Notwithstanding this, proponents will be offered natural justice rights as outlined in Section 8;
 - where the non-statutory declarations offer flexibility with respect to local conditions and circumstances, it is the responsibility of the proponent to propose and substantiate its own approach and to argue the case as to why declarations of the COAG, ANZECC or NH&MRC should not be used as the benchmark for assessing the proposal in question;
 - the EPA will also add to these guidelines, new or revised documents which are published in the future by National Councils; and
 - the current list of National Council documents used by the EPA during EIA is given in Appendix 1.

5. APPLICATION

5.1 Area

This guidance statement applies to all of Western Australia including State coastal waters.

5.2 Duration and Review of the Guidance

The duration of this guidance statement is for five years unless some unforeseen circumstances requires it to be revised.

6. RESPONSIBILITIES

6.1 Environmental Protection Authority Responsibilities

The EPA will apply this guidance statement in making decisions about whether or not to assess proposals, and in any assessment of such proposals.

The EPA will recommend to the Minister the imposition of the requirements in this guidance statement following its determination of any proposal for which it is relevant. The EPA recognised that there may be a need for greater stringency in certain circumstances.

6.2 Department of Environmental Protection Responsibilities

The Department of Environmental Protection will assist the EPA in applying this guidance in environmental impact assessment and in conducting functions under Part V of the *Environmental Protection Act 1986* in accord with this guidance.

6.3 Proponent Responsibilities

Where proponents demonstrate to the EPA that these guidance requirements are accountably and enforceably incorporated into their proposals, the assessment of such proposals is likely to be assisted.

7. DEFINITIONS

agreement - in contract law, the stage at which the negotiations between the parties are complete. The foundation of legal relations called 'contract' is the agreement of the parties. Butterworths Australian Legal Dictionary, Perth, 1997, p41.

ANZECC - the Australian and New Zealand Environment & Conservation Council.

ANZFA - Australian and New Zealand Food Authority.

ARMCANZ - the Agricultural Resource Management Council of Australia and New Zealand.

Australian Local Government Association - the Australian Local Government Association Limited. National Environment Protection Council (Western Australia) Act 1996.

Commonwealth Act - the National Environment Protection Council Act 1994 of the Commonwealth. National Environment Protection Council (Western Australia) Act 1996.

criterion: see scientific criterion

declaration - a formal, imperative statement creating or preserving a right. A declaration may be contained in a treaty. Declaration includes a resolution or statement of claim. Butterworths Australian Legal Dictionary, Perth, 1997, p328.

environment - living things, their physical, biological and social surroundings, and interactions between all of these.

For the purposes of the definition of "environment", the social surroundings of man are his aesthetic, cultural, economic and social surroundings to the extent that those surroundings directly affect or are affected by his physical or biological surroundings (WA EP Act 1986-1992).

Environmental Protection Act - see EP Act 1986

EP Act 1986 - Western Australia: Environmental Protection Act, 1986.

goal

1. “National Environmental protection goal”: means a goal-
 - (a) that relates to the desired environmental outcome; and
 - (b) that guides the formulation of strategies for the management of human activities that may affect the environment.

National Environment Protection Council (Western Australia) Act 1996.

2. that towards which effort is directed; aim or end; terminal point; object by which something is marked.

The Macquarie Dictionary, 2nd revised Ed, 1982, p 751 of 2009pp.

guideline (national environment protection guideline) - a guideline that gives guidance on possible means for achieving desired environmental outcomes. National Environment Protection Council (Western Australia) Act 1996.

measure - see NEPM and National Environmental Protection Measure.

member - a member of the Council. National Environment Protection Council (Western Australia) Act 1996.

national environmental protection guideline (NEPG) - a guideline that gives guidance on possible means for achieving desired environmental outcomes.

National Environment Protection Council (Western Australia) Act 1996.

NEPC - the National Environment Protection Council.

NEPM - National Environment Protection Measure.

national environmental protection measure - framework-setting legal instruments similar to existing State environment protection policies. It may be one or more goals, standards or protocols, and it may also contain guidelines.

Introducing the National Environmental Protection Council, NEPC, December 1995, Adelaide.

NH&MRC - the National Health & Medical Research Council.

NGO - Non Government Organisation group.

objective - an end towards which efforts are directed; something aimed at. The Macquarie Dictionary, 2nd revised Ed, 1987, p 1174 of 2009pp.

policy - a definite course of action adopted as expedient or from other considerations.

Macquarie Dictionary, 2nd revised Ed, 1987, p 1316 of 2009pp.

scientific criterion (water quality criteria) - scientific data evaluated to derive the recommended limits for water uses. ANZECC (1992). Australian Water Quality Guidelines for Fresh and Marine Waters.

standards (national environment protection standard) a standard that consists of quantifiable characteristics of the environment against which environmental quality can be assessed. National Environment Protection Council (Western Australia) Act 1996.

statute - an act passed by parliament. Butterworths Australian Legal Dictionary, Perth, 1997, p 1111.

treaty - an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments, and, whatever its particular designation. Butterworths Australian Legal Dictionary, Perth, 1997, p 1188.

water quality criteria - the quantitative (or qualitative) data that predict the chance or magnitude of the effects of a contaminant on a defined receptor (eg humans, aquatic conditions. ANZECC (1992). Australian Water Quality Guidelines for Fresh and Marine Waters.

water quality goals/objective - a numerical concentration limit or narrative statement that has been established to support and protect the designated uses of water at a specified site. ANZECC (1992). Australian Water Quality Guidelines for Fresh and Marine Waters.

water quality guidelines - numerical concentration limit or narrative statement recommended to support and maintain a designated water use. ANZECC (1992). Australian Water Quality Guidelines for Fresh and Marine Waters.

water quality standards - an objective that is recognised in enforceable environmental control laws of a level of government. ANZECC (1992). Australian Water Quality Guidelines for Fresh and Marine Waters.

8. LIMITATIONS CLAUSE

This guidance statement has been prepared by the Environmental Protection Authority (EPA) to assist proponents and the public. Whilst it represents the contemporary views of the EPA, each proposal which comes before the EPA for environmental impact assessment will be judged on its merits. Proponents who wish to deviate from this guidance should provide justification for the proposed departure.

9. REFERENCES

See Appendix 1

Index

Draft Guidance	November 1997
Preliminary Guidance	
Interim Guidance	
The Guidance	June 1998

Status

The Guidance has been signed-off by EPA

Citation

The Guidance may be cited at this time.

Acknowledgments

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Appendix 1.

List of National documents which contain management strategies, policies, scientific criteria, guidelines, standards and measures adopted by National Councils to which the EPA would normally refer to during its environmental assessment of new proposals. In some cases, however, guidance documents published by other State agencies such as the Victorian and New South Wales EPAs, international agencies such as the World Health Organisation (WHO), and Australian Standards which contain more recent and comprehensive information may also be used, or be used in preference, by the EPA during EIA.

AIR

ANZECC (1990). National Goals for Fluoride in Ambient Air and Forage, Australian & New Zealand Environment Council, Canberra.

ANZECC (1994). Revised Strategy for Ozone Protection in Australia, Australian & New Zealand Environment Conservation Council, Rep No 30, Canberra

ANZECC (1995). Policy for Control of HCFC Emissions in Australia, Australian & New Zealand Environment Conservation Council, Canberra.

AEC and NH&MRC (1986). National guidelines for control of emission of air pollutants from stationary sources; Recommended methods for monitoring air pollutants in the environment, 1985.

CONTAMINATED SITES

ANZECC (1992). Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites, Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1996). Guidelines for the Laboratory Analysis of Contaminated Soils, Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1996). Australian Environmental Guidelines for Copper Chrome Arsenate Timber Preservation Plants, Australian & New Zealand Environment Conservation Council, Canberra.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Council of Australian Governments (1992). Inter-Governmental Agreement on the Environment, Canberra.

Council of Australian Governments (1992). National Strategy for Ecologically Sustainable Development, AGPS, Canberra.

Council of Australian Governments (1996). The National Strategy for the Conservation of Australia's Biological Diversity, AGPS, Canberra.

Council of Australian Governments (1992). National Greenhouse Response Strategy, AGPS, Canberra. This document is likely to be superseded later in 1998 by the National Greenhouse Strategy.

ENVIRONMENTAL IMPACT ASSESSMENT

ANZECC (1991). A National Approach to Environmental Impact Assessment in Australia (including Background Paper of the EIA Working Group), Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1996). Guidelines and Criteria for Determining the Need for and Level of Environmental Impact Assessment in Australia, Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1997). Basis for a National Agreement on Environmental Impact Assessment, Australian & New Zealand Environment Conservation Council, Canberra.

NOISE

ANZECC (1987). Control of Noise from In-service Heavy Vehicles in Australia,
Australian & New Zealand Environment Conservation Council, Canberra.

POLLUTANTS (GENERAL)

ANZECC (1982). Cadmium Policy Statement and Background Profile, Australian &
New Zealand Environment Conservation Council, Canberra.

ANZECC (1982). Mercury Policy Statement and Background Profile, Australian & New
Zealand Environment Conservation Council, Canberra.

NEPC (1998). National Environment Protection Measure for the National Pollutant
Inventory, Adelaide.

WASTE

ANZECC (1983). Management and Disposal of Hazardous Industrial Wastes, Australian
& New Zealand Environment Conservation Council, Canberra.

ANZECC (1993). The National Strategy for the Management of Scheduled Wastes.
Australian & New Zealand Environment & Conservation Council, Canberra.

ANZECC (1985). The Nature, Extent and Potential for Material Recovery, Reuse and
Recycling in Australia, Australian New Zealand Environment & Conservation
Council, Canberra.

ANZECC (1986). National Guidelines for the Management Of Hazardous Wastes,
Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1988). Immobilisation of Hazardous Wastes, Canberra.

ANZECC (1991). National Packaging Guidelines, Canberra.

ANZECC (1990). Waste Lubrication Oil Used Motor, Used Motor Vehicle Tyres and
Recycling and Reuse, Canberra.

ANZECC (1992). Report on the Establishment and Implementation of a National
Kerbside Recycling Strategy: National Kerbside Recycling Taskforce, Canberra.

ANZECC (1996). Polychlorinated Biphenyls Management Plan, Canberra.

NEPC (1998). Draft Environment Protection Measure for the Movement of Controlled
Waste between States and Territories.

WATER

ANZECC (1988). Water Pollution Guide for Urban Runoff Quality Management,
Australian & New Zealand Environment Conservation Council, Canberra.

ANZECC (1988). Impacts of Marinas on Water Quality, Australian & New Zealand
Environment Conservation Council, Canberra.

- ANZECC (1992). National Water Quality Management Strategy: Australian Guidelines for Fresh and Marine Waters. Australian & New Zealand Environment Conservation Council, Melbourne. This document is being revised at present and may be circulated for public review in late 1998.
- ANZECC (1993). Control of Oil Spills in Marine Waters, Australian & New Zealand Environment Conservation Council, Canberra.
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- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Aqueous Wool Scouring and Carbonising. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Wineries and Distilleries. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Intensive Piggeries. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Dairy Processing Plants. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Dairy Sheds. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1995). National Water Quality Management Strategy: Draft Effluent Management Guidelines for Tanning and related Industries. Agriculture & Resource Management Council of Australia and Australian & New Zealand Environment Conservation Council, Melbourne.
- ARMCANZ and ANZECC (1996). National Principles for the Provision of Water for Ecosystems: Sustainable Landuse and Water Resource Management Committee Subcommittee of Water Resources, Occasional Paper SWR No 3, Canberra.
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Footnote:

AEC, ANZEC, ANZECC and ARMCANZ documents (or copies) cited in this Appendix can be obtained from the ANZECC Secretariat, Environment Priorities and Co-ordination Group, Environment Australia, GPO Box 787, Canberra, ACT 2601.

AWRC documents (or copies) cited in this Appendix can be obtained from the Project Manager, National Water Quality Management Strategy, Melbourne Water, GPO Box 4342, Melbourne VIC 3001

Commonwealth of Australia and Council of Australian Governments documents can be obtained from the Manager, AGPS Press, GPO Box 84, Canberra, ACT 2601.

NEPC documents (or copies) cited in this Appendix can be obtained from the Executive Officer, NEPC Service Corporation, Level 5, 81 Flinders Street, Adelaide, SA 5000

NH&MRC documents (or copies) cited in this Appendix can be obtained from NH&MRC, Mail Drop Point 50, GPO Box 9848, Canberra ACT 2601