



Port Hedland Dust Management Taskforce Report

Government response

Frequently Asked Questions

Government Response

What are the main differences, and key points, raised in the Report and the Government response?

Air quality guidelines for particulates

The Government supports the Taskforce recommendation of a 24-hour particulate matter (PM₁₀) standard of 70 µg/m³ (micrograms per cubic metre). Several submissions proposed the adoption of the National Environmental Protection Measure (NEPM) criterion of 50 µg/m³ for particulates (PM₁₀). However the Health Risk Assessment, which was subject to extensive peer review, demonstrated that there would be minimal additional health benefits from adopting the NEPM measure. No change is proposed to the NEPM guideline for PM_{2.5} and Government expects this guideline will continue to be met in Port Hedland as it is currently.

Air quality monitoring

The Taskforce recommended that the Port Hedland Industries Council (PHIC) remain responsible for operating and managing the air quality monitoring network, with Government assuming responsibility for data verification, storage and publication.

The consultation process revealed that a significant section of the community lack confidence in industry conducting air quality monitoring, even with Department of Water and Environmental Regulation (DWER) oversight. While there is little evidence to support these community concerns, both PHIC and DWER acknowledge that the perceptions will be difficult to change.

To address this, the Government response supports the transfer of full responsibility for operating and maintaining the air quality monitoring network to DWER.

Industry Regulation

The Government supports the Taskforce recommendation for the implementation of a coordinated risk-based review and assessment approach to managing dust and noise in Port Hedland. DWER has already commenced giving effect to the

recommendations aimed at removing regulatory duplication between conditions under Parts IV and V of the *Environmental Protection Act 1986*.

Minor changes to the wording of the specific measures were made to reflect Machinery of Government changes. The Government response also supports DWER developing a dust management guideline for bulk handling port premises.

Land-use Planning – Improvement Plan and Improvement Scheme

The Taskforce recommended that the Town of Port Hedland implement a Special Control Area (SCA) in the West End of Port Hedland, through its Town Planning Scheme No. 5. The SCA would prohibit new permanent residential development and other sensitive land uses. Several submissions claimed a SCA would adversely affect residential development, limit development options and reduce the amenity of the West End. Some industry stakeholders were concerned about the Town of Port Hedland's capacity to implement the SCA.

To address these concerns, the Government proposes that the Department of Planning, Lands and Heritage prepare an Improvement Plan and Improvement Scheme for the Western Australian Planning Commission (WAPC) to consider under the *Planning and Development Act 2005*.

Under this approach, the WAPC would become the planning and development authority for Port Hedland's West End. An Improvement Scheme would remove planning decision-making powers from the Town of Port Hedland and enable the WAPC to administer development controls aimed at implementing the Taskforce's recommendations to restrict residential population growth and other sensitive land uses in the West End.

The Government response also includes a commitment that any future West End planning controls will not prevent the redevelopment of residential properties (provided that the redevelopment would not result in an intensification or expansion of a non-conforming use), should they be more than 75% damaged by a natural disaster, such as fire or a cyclone.

Governance

The Taskforce Report recommended that the Taskforce continue to operate, with a more limited role focussing on information sharing, inter-agency coordination and annual reporting.

Several submissions questioned the transparency and legitimacy of the Taskforce, including the relationship of its members with industry. There was also some confusion surrounding the status and decision-making powers of the Taskforce.

The Government proposes that the Taskforce be disbanded as the Taskforce has achieved its main task by preparing its Report to Government.

There will be clear lines of responsibility and accountability for implementing the Government response, through DWER (industry regulation and air quality monitoring) and the WAPC and DPLH (land-use planning).

Health

Why does the Government still support the 70 µg/m³ (microgram per cubic meter) guideline for particulate matter (PM₁₀)?

The National Environmental Protection Measure (NEPM) standard of 50 µg/m³ for particulates (PM₁₀) is not a cut-off between good and bad air quality. The Health Risk Assessment shows that the health outcome for a 70 µg/m³ standard are similar to health outcomes for a 50 µg/m³ standard in Port Hedland.

There is no threshold below which health effects of PM₁₀ are not observed – the changes in health effects for each unit increase in particulate matter concentrations are very small and, therefore, the number of people affected depends on the population size. Due to the small population size of the area, there is negligible difference in estimated health measures between a standard based on 70 µg/m³ and the NEPM value of 50 µg/m³.

The Government supports the Department of Health's recommendation that Government adopt the NEPM standard for PM₁₀ for Port Hedland as the population increases over time and the composition of particulate matter in the air-shed changes to include more combustion-derived particulates.

Is the Government being insensitive to state that “acceptable risk is based on population size” and it is OK to expose a few but not a lot? Please explain.

The National Environmental Protection Measure (NEPM) standard for Particulate Matter for PM₁₀ (50 µg/m³) was based on risk assessments of large populations (100,000 people or more). Studies for the NEPM risk assessment mostly involved particulate matter from traffic and industrial combustion sources and it was determined at a national level that a 50 µg/m³ standard would protect most of the population from particulate matter rich in

combustion materials. The actual increased risk between 50 and 70 µg/m³ is very small, but small increases in risk result in measurable effects in large populations.

This does not mean that the Government is insensitive to the health of smaller communities. The Health Risk Assessment specifically addresses the risk of the small community of Port Hedland to dust and determines a criterion that would be just as protective as the NEPM for the current community.

The Department of Health has recommended that the State Government adopt the NEPM standard for PM₁₀ for Port Hedland as the population increases over time and the composition of particulate matter in the air-shed changes to include more combustion-derived particulates.

Medical practitioners and scientists agree that neither the NEPM PM₁₀ nor the Port Hedland PM₁₀ standard would protect everyone, because some people are much more sensitive to PM₁₀, even when PM₁₀ is well below the NEPM. On balance, most people will not be affected, and while we cannot predict who will be affected, we know from hospital data that those with existing disease, young children and the elderly are more vulnerable to increases in particulate matter even when those increases are below the NEPM.

The Report notes that all the residents of the West End have possibly been exposed to airborne heavy metal contamination – they may have been exposed to pollution for years. Why does the Government response not address this?

Heavy metals are in air regardless of location. The HRA addressed heavy metals and the monitoring for heavy metals in Port Hedland clearly showed that health guidelines were not exceeded.

Why does the Government response exclude workers at the port?

Occupational exposure to dust has been studied extensively. Occupational safety and health (OSH) legislation protect workers from excessive dust exposure. If workers are exposed to excessive dust, it suggests either OSH regulations are not being followed or they are not being enforced. Worksafe is the responsible agency for investigating OSH compliance and enforcements.

Industry Regulation

Has the Government done anything to ensure air quality monitoring is more transparent and trustworthy?

The Government acknowledges community concerns about the objectivity of air quality monitoring. While the Taskforce

recommendations proposed partial Government responsibility for air quality monitoring – the Government supports the transfer of full responsibility for operating and maintaining the air quality monitoring network to the Department of Water and Environmental Regulation. This will be subject to negotiations over the configuration of the network, and ensuring any incurred costs are covered by industry in accordance with the ‘polluter pays’ principle.

The Department of Water and Environmental Regulation recently released a LiDAR report – will they use this in future to regulate dust?

LiDAR (Light Detection and Ranging) allows the Department of Water and Environmental Regulation (DWER) to track dust plumes across large areas and determine emission sources within and around Port Hedland.

LiDAR assists DWER to assess dust sources affecting local communities and to measure the effectiveness of dust mitigation measures. LiDAR technology is not, however, intended to be used as a basis for enforcement action.

Results from LiDAR studies will contribute to decision-making when reviewing industry licences and works approvals.

What is the Government doing to regulate industry dust emissions and to reduce the exposure of Port Hedland residents to excessive dust?

A key recommendation in the Taskforce Report is for the Department of Water and Environmental Regulation (DWER) to undertake a coordinated risk-based review and assessment of all port facilities in Port Hedland holding a licence granted under Part V of the Environmental Protection Act.

DWER has commenced reviewing the port operations in Port Hedland to ensure that the licence accurately reflects the scale and nature of the premises’ operations. DWER can re-assess the premises’ licences to ensure that the controls applied through licence conditions are appropriate and effective.

Planning

What are Improvement Plans and Improvement Schemes?

Improvement plans are strategic planning instruments, prepared under Part 8 of the *Planning and Development Act 2005* used to facilitate the development of land in areas identified by the Western Australian Planning Commission (WAPC) as requiring special planning. The WAPC is the responsible authority for administering Improvement Plans and Improvement Schemes. Improvement Plans require approval by the Governor of Western Australia.

The WAPC would become the responsible planning and development authority for the Port Hedland West End under an

Improvement Plan and Improvement Scheme. An Improvement Scheme would remove planning decision-making powers from the Town of Port Hedland and enable the WAPC to administer development controls to implement the Taskforce’s recommendations to prevent residential population and other sensitive land use growth in the West End.

An Improvement Plan and Improvement Scheme sounds heavy-handed. Will additional land-use controls curtail residential development and result in further loss of amenity?

The Department of Health recommended a precautionary approach to limit exposure of the population to potential airborne emissions in the West-End. This, together with other agency advice on a variety of matters, resulted in the Government recommending an Improvement Plan and Improvement Scheme aimed at prohibiting new residential development west of Taplin Street and capping growth between Taplin and McGregor Streets.

Rezoning of land to non-residential categories, in part, to align with the Town of Port Hedland local planning strategy – the Pilbara’s Port City Growth Plan, will create other development and land use opportunities in the West End. The ultimate configuration of such planning controls and resulting influence on amenity cannot be determined at this time.

How were the boundaries set?

The Health Risk Assessment determined that dust concentrations are highest in the West End of Port Hedland. McGregor and Lukis Streets was determined as the most appropriate spatial boundary as the location of the Ibis Styles Hotel, water tower, Port Hedland Council offices and the Port Hedland Turf Club provide a significant non-residential barrier to the eastern side of Port Hedland. Dust exposure beyond these sites is lower than the West End.

Setting the boundary at McGregor Street and Lukis Street would ensure that public dust exposure is limited while still providing opportunities for residential development and growth in the eastern parts of Port Hedland.

Why is the Town of Port Hedland being stripped of its ability to manage planning in the West End?

The Port Hedland Port is a state strategic asset. The Western Australian Planning Commission is better placed to develop and ensure long-term land-use planning for the area, as it is less susceptible to the industry and community pressures faced by local government.

While the WAPC will be managing the Improvement Plan and Improvement Scheme, the community will still be able to participate in planning processes.

The WAPC is the development control authority for an Improvement Scheme, and has responsibility for determining applications made for development in that area. However, the WAPC may delegate these powers to other bodies, including the relevant local government.

Will the State prioritise industry over community in implementing the Improvement Plan and Improvement Scheme?

No, the process for developing and implementing an Improvement Plan and Improvement Scheme requires community involvement. Community and industry will both be encouraged to participate in the drafting process to ensure all interests are balanced.

What does the proposed Improvement Plan and Improvement Scheme mean for the value of my property?

Property values are subject to a range of market forces, making it difficult to determine how the property market would respond to an Improvement Plan/Scheme limiting permanent residential development in the West End of Port Hedland.

Commercial and industrial zones contemplated under the Pilbara's Port City Growth Plan will provide a wide range of potential future development opportunities in the West End, including short-stay tourist accommodation, light industrial and other commercial land uses. The proposed land-use controls would not affect these uses.

Generally, planning proposals do not take into consideration individual land values however; economic impacts and broader economic growth are relevant factors. Future planning in the West End will include an economic impact assessment.

Will there be compensation associated with the implementation of an Improvement Plan and Improvement Scheme?

No. The *Planning and Development Act 2005* sets out compensation available to land owners that are injuriously affected by the zoning of land under planning schemes. Compensation for injurious affection is only available where land is changed from a zone to a public purpose reservation or, where a rezoning, including implementation of a special control wholly or partially prevents the ongoing use, erection, alteration or extension of any building on the land that was already permitted. The proposed Improvement Scheme does not contemplate prohibiting existing lawful land uses, therefore; no compensation would be available to land owners.

Will I be able to provide input into the proposed planning process?

Yes. The process will be participatory and the Department of Planning, Lands and Heritage will work with the Town of Port Hedland to ensure effective community consultation takes place.

The Town of Port Hedland local planning scheme prevents redevelopment of my house if more than 75% destroyed i.e. by a cyclone. What am I to do?

The Government response includes a commitment that the Government will ensure that any future West End planning controls will not prevent the redevelopment of residential properties (if the redevelopment would not result in an intensification or expansion of a non-conforming use), should they be more than 75% damaged by a natural disaster (such as fire or a cyclone).

Where to find more information:

Contact: porthedlanddust@jtsi.wa.gov.au

Additional information:

www.jtsi.wa.gov.au/porthedlanddustmanagement