

LG Alert

Reducing the “Green Tape” – EPA taking a step back from referrals for activities of environmental significance

Although the State Government is currently in the midst of the biggest overhaul of the State’s planning system in more than 30 years, early indications are that those changes will not become fully operational for 3-5 years.

As a result, amendments to the present planning system are still occurring. The latest proposed change, announced today, is for amendments to Schedule 21 of the *Development Regulations 2008*, which lists those ‘activities of environmental significance’ which are to be referred to the Environment Protection Authority (“the EPA”).

The advice or recommendations received from the EPA for activities under Schedule 21 are not binding on Councils undertaking development assessment, but Councils must “have regard to” the EPA’s report in their assessment.

The proposed amendments will reduce or restrict the application of six “activities of environmental significance” listed in Schedule 21. In addition, nine activities will be removed entirely from Schedule 21, being:

1. Chemical Storage and Warehousing Facilities;
2. Ceramic Works;
3. Vehicle Production;
4. Beverage Production Works;
5. Milk Processing Works;
6. Produce Processing Works;
7. Coal Handling and Storage;
8. Fuel Burning; and
9. Development in the vicinity of certain airports.

Together with the proposed amendments, the EPA has produced a range of “environmental assessment guidelines” which provide advice and guidance to Councils undertaking environmental assessment, for the activities to be removed from Schedule 21. The intention is for those guidelines to replace the advice the EPA would have otherwise given following a referral under the *Development Act 1993*.

Following the removal of activities from Schedule 21, there will be no statutory obligation on Councils to consider or “have regard to” the proposed environmental assessment guidelines relating to those activities. However, as a matter of best practice, it is advisable that Councils do seek out and consider the advice contained in any relevant environmental assessment guideline, when undertaking development assessment under the Act.

Following the amendments, the onus will be on Councils to determine if a relevant environmental assessment guideline exists for a particular activity the subject of a development application, and to then consider and apply that guideline as the Council sees fit.

Submissions on the proposed amendments can be made to the EPA by mail or email and are sought by **5:00 pm, Friday 2 October 2015**.

Further details as to how submissions may be made can be found at http://www.epa.sa.gov.au/our_work/have_your_say.

For more information on these proposed changes, please contact Chelsea Lucas on 8113 7111 or clucas@kellyjones.com.au or Victoria Shute on 8113 7104 or vshute@kellyjones.com.au