

18 November 2021

Western Australian Planning Commission
Locked Bag 2506
Perth WA 6001
Via email: waterpolicies@dplh.wa.gov.au

Draft SPP 2.9 Planning for Water Policy

Thank you for the opportunity to provide feedback on the draft State Planning Policy (SPP) 2.9 Planning for Water and the accompanying Planning for Water Guidelines. The Urban Development Institute of Australia (UDIA) WA is the peak body representing the property development industry in Western Australia. UDIA is a membership-based organisation with members drawn from the residential, commercial and industrial property development sectors, inclusive of both private and public sector organisations. Our industry represents approximately 10.1% of Western Australia's Gross State Product, contributing \$27.8 billion annually to the Western Australian economy and \$270.5 billion nationally. As well as helping to create sustainable and liveable communities, the industry employs a total of 205,100 Western Australians and 2.023 million Australians across the country.

General Comments

UDIA WA welcomes the release of the draft SPP 2.9 Planning for Water and the accompanying Planning for Water Guidelines. We fully support the intent of the revisions and the attempt to streamline and simplify the current water policy framework, whilst also providing greater clarity around how water-related matters are implemented. Whilst we are supportive of the intent of the amendments, we have some concerns about the unintended consequences of the amendments and how the new regime will be implemented. Addressing these concerns will be critical to maximising the environmental, social and economic benefits of an effective and efficient Planning for Water SPP and assessment framework.

Fostering outcome-focused decision-making and site-responsive solutions

To deliver greater innovative and effective responses to our current and emerging water challenges, the water planning framework needs to foster greater collaboration between industry and regulators, encourage outcome-focussed decision making and ensure the delivery of site-responsive solutions. Therefore, the Institute is encouraged that these are identified as 'guiding principles' of the policy framework. However, we are concerned that these 'Guiding Principles' are only outlined in the Planning for Water Guidelines and are not included in the SPP. The failure to include these within the statutory policy raises legitimate questions as to how these principles will be implemented in practice, particularly as the aims that these principles seek to achieve are absent from both the SPP's 'policy objectives' and 'policy outcomes'.

It is also disappointing that the Policy's objectives are exclusively focused on 'protecting' the environment and public health, and minimising future costs. Whilst fully recognising the intent and importance of these stated objectives, without objectives that explicitly encourage 'outcome focused decision making' and 'site-responsive solutions' that the Policy's guiding principles seeks, in practice it is likely that the Policy's objectives will reinforce a culture of risk-averse decision making that hinders innovation and collaboration.

In contrast to draft SPP 2.9, SPP 7 Design WA objectives are built around the combination of a performance-based policy approach and skilled evaluation expertise, together with skilled design expertise to deliver, flexibility, innovation, efficiency and ultimately, improved design outcomes. We encourage the WAPC to adopt a similar objectives-framework for the Planning for Water SPP.

Recommendation

- The objectives are expanded and better align with the Policy's 'guiding principles'.

Uncertainty and the impact of front loading of costs on housing affordability

The draft Policy introduces the requirement for Water Management Reports (WMR) at various planning stages, replacing the previous reports, District Water Management Strategies (DWMS), local water management strategies (LWMS) and urban water management plans (UWMP). This change represents a significant shift with more detailed design work undertaken and provided at earlier planning stages, which we understood was intended to remove the need for UWMP's for most subdivisions. However, this isn't clear in either the SPP or accompanying Guidelines, and therefore unlikely to be implemented in practice.

The Guidelines require a detailed WMR (akin to a UWMP) to be approved prior to lodging an application subdivision approval, rather than this being a condition of subdivision approval as is current practice. This brings forward the requirement to undertake extensive engineering and design work and other associated technical studies, including an acid sulphate soil management plan, dewatering management plan, and wetland management plan. This front-loading of costs exposes capital at a stage where there is no assurance of subdivision approval, or even certainty that a decision will be made within a statutory timeframe. This introduces significant risks and creates uncertainty that will jeopardise development and have severe impacts upon housing affordability. Smaller scale projects will be particularly impacted. This is especially concerning as our future supply of land becomes increasingly fragmented. UDIA queries the validity of decoupling of the WMR reports from the statutory planning process, which removes any certainty of assessments within statutory timeframes and queries the right of review process for WMR.

Given the scale of the proposed change to current regulatory practice and the consequences for housing affordability that this uncertainty causes, it is disappointing that no justification has been provided as to why the conditioning of a WMR as part of a subdivision approval is now considered to be inappropriate.

Recommendation

- UDIA strongly recommends that the assessment of WMRs remains integrated within the planning process and includes statutory assessment timeframes.

Increased complexity and lack of clarity

In addition to concerns regarding the front loading of costs, we are concerned about the implications of the expanded scope of WMRs. The proposed WMR information requirements will mean that technical inputs and assessments are required from a wide range of different disciplinary professions to cover the extensive range of environmental considerations that these reports contain, inclusive of drinking water, contamination, acid-sulphate soils, aboriginal heritage, flora and fauna, wetlands, etc. As most specialist hydrologists within Perth and WA do not have this broad range of expertise in-house, the coordination of these different inputs into a consolidated report will add significantly to development costs. Similarly, it is also unclear if, and how, DWER and other referral agency resources

will be structured and coordinated to manage the assessment of these expanded reports in an efficient and effective manner.

Experience has shown that rather than streamlining assessment processes, this consolidation of documents into a single report unnecessarily adds complexity to assessments, adding costs to industry and increasing pressure on already limited referral agency resources, causing delay. These costs are then ultimately passed on to the consumer, affecting housing affordability and supply. If this catch-all approach is to be maintained, to minimise industry and government resource requirements, it is imperative that clear guidance setting out when specific items/report components are required is provided (e.g. a decision tree map). This guidance will also help ensure that the Policy is implemented in accordance with its guiding principles.

In addition to concerns regarding the expanded scope of WMR, UDIA is also concerned about the absence of any guidance regarding WMR requirements within infill areas. Whilst the Guidelines state that infill projects should be informed by a WMR, no guidance or limitations on information requirements are provided. Without appropriate limitations in place and the decoupling of WMR reports from the statutory planning process, we are concerned about the ability of local governments to unreasonably extend modelling requirements beyond that relevant to a particular development, particularly where there is no modelling in place.

Similarly, the Policy introduces uncertainty by including cumulative impact assessment for all stages of the development process expected for development applications. Any cumulative impact assessments should only be undertaken at a regional or district level stage, not at a local or subdivision stage.

Recommendation

- The Policy and supporting Guidelines provide greater clarity on WMR requirements and ensure that information requirements remain site-responsive and do not become excessive.
- Cumulative impact assessments are only undertaken as part of higher order planning stages.

Specific comments relating to the content of the SPP and supporting Guidelines are set out in the table below. Should you require any assistance or further information regarding these comments, UDIA would be delighted to assist. Please contact Chris Green, Director of Policy and Research at cgreen@udiawa.com.au or 9215 3400.

Yours sincerely



Tanya Steinbeck
Chief Executive Officer

APPENDIX ONE

SPP 2.9 PLANNING FOR WATER POLICY			
Ref	P#	Relevant paragraph	UDIA Feedback
3.0 WATER IN WESTERN AUSTRALIA			
3.0	1	Section 3.0 -Water in Western Australia	A lot of reference is made to water resources, but give this new SPP includes urban water management, an expansion of this section is recommended. In particular, more reference is recommended to urban water/drainage management and better alignment with the planning system.
6.0 POLICY OUTCOMES			
6.6	3	<p>Riverine flooding</p> <p>6.6 Planning and development in and around flood prone land:</p> <p>iii. reduces, where possible, the impact of flooding on people, property and infrastructure.</p>	It is difficult and unreasonable to expect that new development reduces the impact of flooding on people, property and infrastructure, therefore we suggest that 6.6, iii) be removed, noting that 6.6 i. seeks to ensure that development does not introduce unacceptable risk to people, property or infrastructure.
7.0 POLICY MEASURES			
7.1	3	<i>“Planning decisions (except development applications) should consider cumulative impacts on water resources.”</i>	The introduction of the environmental concept of cumulative impacts into planning policy is a paradigm shift warranting clear guidance given it’s informed by subjective qualitative assessment which could create significant development uncertainty. Consideration of cumulative impacts should be focused at a regional or district level stage not at a local or subdivision stage.
7.4	5	Water demand and supply	Currently, there are a number of areas identified by the WAPC for development that do not have groundwater allocations available to enable the State’s desired land use and development outcomes to be readily achieved. Therefore, to avoid sterilising land and to maintain a supply of development ready land, it is important that the draft SPP establishes a policy framework that facilitates the trade and transfer of water licenses in development precincts efficiently. UDIA strongly encourages the Department/WAPC to engage with DWER and the development industry to develop effective solutions this critical issue.



APPENDIX ONE

			<p>One possible solution could be to enable a water license for a site within a development area to be issued/identified to enable planning to proceed, prior to the trade of water allocations. Alternative a 'Deemed to Comply' pathway could be created to enable Mains Water to be used as an acceptable outcome where groundwater resources are overallocated, and the development proposal is identified within state planning frameworks.</p>
7.5	6	<p><i>Planning decisions involving the intensification of land uses in Priority 1 and 2 areas should be based on the following and in accordance with the Guidelines:</i></p> <p><i>k) there is a general presumption against the intensification of land uses;</i></p> <p><i>l) proposals will only be considered where the land is located in the MRS area and has been identified for development...</i></p>	<p>Draft SPP 2.9 effectively erodes the opportunity for Government to consider and approve technically justifiable urban development within PDWSP areas. Our understanding is this is the opposite outcome to what was intended by the policy consolidation exercise. A core function of the Draft Policy should be to clearly 'map out' the process and content (both planning and technical) for the preparation and assessment of urbanisation proposals within PDWSP areas – and specifically for proposals which are not identified by current strategic planning documents.</p> <p>Urbanisation proposals requiring reclassification of land situated in a PDWSP area (from Priority 2 to Priority 3) are restricted to sites already "identified for development in the manner proposed through a strategic planning document." Thus otherwise technically justifiable urbanisation propositions located over such lands are effectively ruled out by such wording. Noting that is unlikely that public drinking water sources areas will be shown in a sub-regional planning framework or sub-regional structure plan, the Policy should allow more clearly for proponent and technical led proposals that demonstrate that the risk to the water is acceptable etc.</p> <p>In regard to the detailed assessment referred to by Draft SPP 2.9, the separate Guidelines document that accompany the Draft Policy (specifically - Sections 9.4 and 9.5) provide guidance on the planning and technical criteria that planning decisions will be based upon. We believe the criteria stipulated here requires further work and clarification which learn from successful developments in PDWSP areas such as Treeby.</p>

APPENDIX ONE

SPP 2.9 PLANNING FOR WATER GUIDELINES			
Ref	P#	Relevant paragraph	UDIA Feedback
4.0 ADDRESSING CUMULATIVE IMPACT			
4.0		Addressing Cumulative Impact	The introduction of the environmental concept of cumulative impacts into planning policy is a paradigm shift warranting clear guidance given it's informed by subjective qualitative assessment which could create significant development uncertainty. Consideration of cumulative impacts should be focused at a regional or district level stage not at a local or subdivision stage.
5.0 WATER MANAGEMENT REPORTS			
5.3	12	<i>'This information should be 3D-modelled where appropriate.'</i>	This section calls for 3-D modelling, which is not a common practice in hydrology. Should this refer to 2D modelling rather than 3D modelling?
5.3.3	12	<i>'viii. Pre/post development topography;'</i>	Post-development topography (or bulk earthworks) is generally not known as part of an MRS rezoning.
5.4.1	15	<p><i>Planning considerations for staged developments</i></p> <p><i>'A Local WMR is required to address the entirety of the proposal area and provide enough detail to demonstrate feasibility of the water management systems and strategies, water supplies and acceptability of water resource protection. For multi-stage developments it is reasonable to provide differing levels of detail for the various stages. The first stage of the development will act as a 'template' for subsequent stages, demonstrating street and lot scale systems, while still providing critical information for major elements of the design at a broader scale for the whole structure plan area.'</i></p>	Development staging should not be considered as part of the Local WMR, as it will inevitably change. This should rather be addressed in the Subdivision and Development WMR.

APPENDIX ONE

5.5	16	<p><i>'A Subdivision and Development WMR is required to demonstrate in detail that all water matters within or impacting on the site will be appropriately managed'.</i></p>	<p>For urban development, Subdivision and Development WMR must be submitted with the application and must be approved prior to approval of the application. WAPC may extend the determination beyond 90 days, with agreement of the proponent, to allow additional information to be provided.</p> <p>This represents a significant risk to the proponent as the whole multi-disciplinary team will need to be substantially progressed with the detailed design to inform the WMR and avoid locking in a WMR that becomes unworkable. This also may be quite impractical should referral agencies seek amendments and inappropriately use the subdivision approval as the impetus to consider a design.</p>
5.5	16	<p><i>'2. A Subdivision and Development WMR may be required when lodging a subdivision or development application, in any of the following instances (only where it has not been addressed in an earlier stage of the planning process):</i></p> <p><i>c) where the proposal deviates from the requirements of a previously approved WMR;'</i></p>	<p>Clause c) is too vague and could generally include all proposals. Greater clarity and guidance is need to provide different streams of assessment /information requirements for minor and low risk amendments to WMRs.</p>
5.5.1	17	<p><i>'Decisions related to infill proposals should be supported by sufficient information, as determined by the decision-making authority, to demonstrate that the existing water systems and services have the capacity to support future development, including sewerage, drinking and non-drinking water (including for public and private open spaces), flood storage, stormwater management and high groundwater management. In addition, consider the cumulative impacts of similar developments within the catchment, including the potential for groundwater rise'.</i></p> <p><i>'Where appropriate, infill projects should be informed by a WMR that is likely focused on capacity of existing systems and services. Consideration of replacing aging or inadequate infrastructure with multi-functional systems to improve amenity, water quality and efficiency may be necessary.'</i></p>	<p>Whilst this section acknowledges the range and complexity of infill development issues, the Guideline does not provide any detail as to how decision-making authority should address these issues, or provide any guidance as to what the WMR should seek to address or place any limitations on the issues the proponent will need to resolve.</p> <p>This is particularly concerning given the Governments aspirations for 50% of new housing to come from infill development and the potential for significant variations to exist at a local level. In order to fulfill the State Government's infill objectives efficiently, it is vital that greater clarity on WMR requirements in existing urban areas is provided to ensure consistency across local governments.</p> <p>UDIA is also concerned that there is the ability for local government authorities to request extended modelling of built catchment where there is insufficient information existing. This undertaking needs to be shared, especially on orphaned sites that are very small components of the greater network.</p> <p>Also concerning is there is the ability for local government authorities to orphan a site. For example, where all neighbouring lots have access to a Water Corporation main drain but it doesn't allow new connections.</p>

APPENDIX ONE

5.6.3	19	<p><i>‘There is a need to understand the surface water and groundwater fluxes of the area and how this is related to the hydrological regimes of the site. Depending on the complexity of the area, this could be done using a mass water balance or modelling exercise such as a catchment or local area model. This will enable a preliminary assessment of how much water is allocated to existing uses (natural and consumptive). This tool could also be used to enable a preliminary assessment of how much water will be available for use after development and to provide a preliminary indication of the need for alternative water sources, so that opportunities for other fit-for-purpose sources can be identified. DWER’s drainage and water managements plans may also provide this type of information.’</i></p>	<p>This section has an over-emphasis on water balance modelling, which is not necessarily a useful tool. UDIA suggests inclusion of other tools which can also be used to <i>‘understand the surface water and groundwater fluxes of the area and how this is related to the hydrological regimes of the site’</i>.</p>
5.6.5	21	<p>Step 5: Consideration of critical site conditions</p>	<p>Again, within the list of considerations there is an over-emphasis on site water balance and by contrast very little information regarding groundwater and stormwater considerations which control the design elements of urban and industrial estates.</p>
<p>6.0 ENVIRONMENTAL, SOCIAL AND CULTURAL VALUES</p>			
6.1.3	26	<p><i>“wetland buffers identified in planning proposals are often reserved in region schemes or local planning schemes and placed in public ownership. This is to prevent the area from being used for any other land use.”</i></p> <p>And</p> <p><i>“Significant wetlands and their buffers, and waterways and their foreshore areas, are often required to be ceded to the Crown free of charge at subdivision stage.”</i></p>	<p>The approach to wetlands detailed in the Guidelines doesn’t appear consistent with current practice. For example, 6.1.3 of the Guidelines states that “wetland buffers identified in planning proposals are often reserved in region schemes or local planning schemes and placed in public ownership. This is to prevent the area from being used for any other land use.” It later states that “Significant wetlands and their buffers, and waterways and their foreshore areas, are often required to be ceded to the Crown free of charge at subdivision stage.” Current practice is wetlands and their buffers are identified at LSP stage and therefore ceded free of cost. If a significant wetland is identified and reserved at an earlier stage (i.e. MRS or TPS) then the State/Council may be liable for the acquisition or a compensation claim for injurious affection. Consideration should be given to removing the wetlands section given it’s understood a separate SPP is being developed for the subject.</p>
6.1, 6.1.1	23-25	<p>6.1 Wetlands and waterways, 6.1.1 Identifying waterway foreshore areas & 6.1.2 Identifying wetland buffers</p>	<p>Clearer guidance needed within the Guidelines on creating wetland buffers and on who the relevant government agency is when a site is within a waterway.</p>

APPENDIX ONE

<p>& 6.1.2</p>			
<p>6.1.5</p>	<p>26</p>	<p>Bushfire risk and management of buffer and foreshore areas <i>“Bushfire management plans must be developed after the identification of the waterway foreshore area and wetland buffer, and consider any future waterway foreshore area or wetland buffer restoration plans. No bushfire mitigation strategies are to be contained within a waterway foreshore area or wetland buffer.</i></p>	<p>The final sentence of this paragraph should be removed as it contradicts with the aims and intent of wetland restoration plans, which by their very nature, are likely to mitigate bushfire risks. Therefore, it is incongruous that "no bushfire mitigation strategies to be included within the foreshore area or buffer".</p>
<p>7.0 RIVERINE FLOODING</p>			
<p>7.1</p>	<p>33</p>	<p><i>“Planning decisions (except development applications) should consider cumulative impacts on water resources.”</i></p>	<p>The introduction of the environmental concept of cumulative impacts into planning policy is a paradigm shift warranting clear guidance given it is informed by subjective qualitative assessment, which could create significant development uncertainty. Consideration of cumulative impacts should be focused at a regional or district level stage not at a local or subdivision stage.</p>
<p>8.0 INFRASTRUCTURE AND SUPPLY</p>			
<p>8.5</p>	<p>40</p>	<p><i>‘Consideration of these risks is particularly important in the design of public and private open spaces and proponents can respond to these risks by: i. providing for functional open spaces and critical assets in areas not prone to inundation; ii. creating landscape designs that are consistent with the natural environment;’</i></p>	<p>Points i) and ii) directly contradict each other and should be clarified.</p>
<p>8.7.1</p>	<p>42</p>	<p>Beneficial use and re-use of wastewater <i>‘SPP 2.9 states that proposals are encouraged to incorporate the beneficial use and re-use of water resources. This is an important component of integrated water resource management and response to increasing pressures on water resources. As wastewater can contain a wide range of pathogens and contaminants, proposals</i></p>	<p>There are examples where treated wastewater which has been bought up to drinking water quality, has not been able to be used in populated areas, preventing perpetual use. For example, Alkimos was meant to have a ‘purple pipe’, but now just has recharge to mound.</p>

APPENDIX ONE

		<i>involving its use and re-use must comply with relevant health and environmental regulation.'</i>	
8.7.2.4	42	Instances where reticulated sewerage is required	Whilst we recognize that it is current government policy that land rezoning won't be supported where there is less than 0.5m clearance to groundwater, it should be acceptable to rezone such land provided an appropriate response to the constraint can be provided. This might include fill or groundwater control where it does not impact environmental or water resources assets.
12.0 ROLES AND RESPONSIBILITIES			
12.2	61	<i>iv. 'preparation of WMR in support of local planning strategies, local planning scheme amendments and/or local structure plans, including consideration of relevant advice from other agencies and/or service providers, and giving due regard to that advice;'</i>	This section reads that local government authorities have the responsibility for preparing the WMR in support of the planning application made by the landowner. Is this in the event that the local government is the proponent as well as the authority? If this is correct, further clarity in the wording is recommended.
12.4 (ii)	62	<i>"preparation of drainage and water management plans, where appropriate, to address critical catchment-scale issues and management opportunities for high-risk priority development areas;"</i>	Suggested removal of 'where appropriate', as this is appropriate for all high-risk priority areas. Suggested inclusion in section 12.4 of preparation of Regional WMR, where appropriate.
TABLES, APPENDICES & FIGURES			
	66-78	APPENDIX B, C, D and E	Suggested removal of Appendices B through to E, due to thorough explanation of WMR details in main body of Guidelines.
	64-75	APPENDICES Section A2, B2, C2, D2 say <i>'the requirements'</i> ; the wording is <i>'outlined the components of a...'</i> , and in table header <i>'description of requirements'</i> .	While it is understood that the Guidelines are identifying that it is a risk-based approach, stronger wording is needed in regard to not everything being required for every project. For example, the wording and titles of sections in Appendices A, B, C and D refer to <i>'the requirements'</i> or <i>'components of'</i> , with the headers of the tables in the Appendices also referring to <i>'description of requirements.'</i> Suggested alteration of wording to indicate <i>'possible investigations if applicable to the site'</i> or similar.