Revised Draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999

Report to the Minister for the Environment

As required under section 28
of the Environmental Protection Act, 1986

Environmental Protection Authority
Perth, Western Australia
December 1999

Summary

The Draft Peel Inlet - Harvey Estuary EPP 1999 was released by the EPA for public comment on 11 November 1999. Public comment closed on 2 December 1999.

Upon conducting its review of the 1992 Peel-Harvey EPP, the EPA invited comment as to the process, issues and factors to be considered during such a review. For this purpose the EPA re-issued the 1992 Peel-Harvey EPP unchanged as the draft for public consultation.

The review of the 1992 Peel-Harvey EPP has been complicated because of the timing of the EPA's Review of the Progress and Compliance Report and review of the Ministerial Conditions relating to the EPA's 1988 assessment of the Peel Inlet-Harvey Estuary Management Plan and legally binding Ministerial Conditions arising from this assessment.

The EPA recommends that further revision of the EPP not occur prior to the EPA's Review of the Progress and Compliance Report, which is likely to be completed by mid 2000.

In light of submissions received and further consultation with stakeholders, the EPA has prepared:

- a Revised Draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999 (ie 1992 Policy unchanged) (see Appendix 1); and
- A summary of submissions and EPA responses (see Appendix 2),

for the Minister for the Environment's consideration under section 28(c)(ii).

APPENDIX 1

ENVIRONMENTAL PROTECTION ACT 1986

REVISED DRAFT ENVIRONMENTAL PROTECTION (PEEL INLET-HARVEY ESTUARY) POLICY 1999

ENVIRONMENTAL PROTECTION ACT 1986

ENVIRONMENTAL PROTECTION (PEEL INLET-HARVEY ESTUARY) POLICY APPROVAL ORDER 1999

Made by the Minister under section 31 (d).

Citation

1. This order may be cited as the Environmental Protection (Peel Inlet-Harvey Estuary) Policy Approval Order 1999.

Approval and commencement of environmental protection policy

2. The environmental protection policy set out in the Schedule —

(a) is approved; and

(b) shall have the force of law on and from the day of which this order is published in the Gazette.

SCHEDULE

(Clause 2)

ENVIRONMENTAL PROTECTION ACT 1986

ENVIRONMENTAL PROTECTION (PEEL INLET-HARVEY ESTUARY) POLICY 1999

Approved by the Minister under section 31 (d)

PART 1 — PRELIMINARY

Citation

1. This policy may be cited as the Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999.

Purpose of policy

2. The purpose of this policy is —

(a) to set out environmental quality objectives for the Estuary which if achieved will rehabilitate the Estuary and protect the Estuary from further degradation; and

(b) to outline the means by which the environmental quality objectives for the Estuary are to be achieved and maintained.

Interpretation

3. In this policy, unless the contrary intention appears —

"environmental quality objectives" means the environmental quality objectives set out in clause 7;

"Estuary" means Peel Inlet and Harvey Estuary;

"median load (mass) of total phosphorus" means the middle observed phosphorus load in the observed series of measured annual phosphorus loads, measured over the immediately preceding 10-year period;

"Planning Policy" means "Statement of Planning Policy No. 2; The Peel-Harvey Coastal Plain Catchment" prepared by the State Planning Commission under the Town Planning and Development Act 1928 and published in the Gazette of 21 February 1992 at pp. 947–955, and includes any amendments made to the Policy;

"policy area" means the portion of the environment to which this policy applies;

"this policy" means this environmental protection policy.

Application

4. The portion of the environment to which this policy applies is the area of land defined in Schedule 1.

PART 2 — BASIS FOR PROTECTION OF ESTUARY, ENVIRONMENTAL QUALITY OBJECTIVES, AND ACHIEVEMENT AND MAINTENANCE OF THOSE OBJECTIVES

Beneficial uses

5. The following uses of the Estuary are declared to be beneficial uses to be protected under this policy —

(a) use of the Estuary as a resource for studying the natural environment;

(b) use of the Estuary as a habitat for diverse and abundant native flora and fauna communities;

(c) use of the Estuary to support commercial and amateur fisheries;

(d) use of the Estuary for recreation, tourism and landscape amenity;

(e) use of the Estuary as a focus for residential development.

Basis for protection of Estuary

6. (1) Nutrient enrichment of the Estuary has been caused by the clearing of native vegetation in the policy area and by land uses that result in nutrients, especially phosphorus, leaching into waterways in the policy area and then flowing into the Estuary.

(2) Nutrient enrichment in the Estuary has stimulated the excessive growth of algae, causing the degradation of the Estuary and creating a serious public nuisance.

Environmental quality objectives

7. The environmental quality objectives to be achieved and maintained in respect of the Estuary are a median load (mass) of total phosphorous flowing into the Estuary of less than 75 tonnes with —

(a) the median load (mass) of total phosphorous flowing into the Estuary from the Serpentine River being less than 21 tonnes; and

(b) the median load (mass) of total phosphorous flowing into the Estuary from the Murray River being less than 16 tonnes; and

(c) the median load (mass) of total phosphorus flowing to the Estuary from the Harvey River and drains being less than 38 tonnes.

Achievement and maintenance of environmental quality objectives

8. (1) The rehabilitation and protection of the Estuary is to be effected by the achievement and maintenance of the environmental quality objectives, objectives which will prevent excessive growth of algae in the Estuary.

(2) The environmental quality objectives are to be achieved and maintained through —

(a) implementation of the Planning Policy by local authorities through their relevant town planning schemes, and by the State Planning Commission through the Metropolitan Region Scheme:

(b) appropriate land management by landholders and management authorities in the policy area:

(c) government extension services including the provision of advice to landholders in the policy area; and

(d) local authorities and the State ensuring that decisions and actions are compatible with the achievement and maintenance of the environmental quality objectives.

SCHEDULE 1
(Clause 4)

POLICY AREA

PEEL HARVEY CATCHMENT AREA

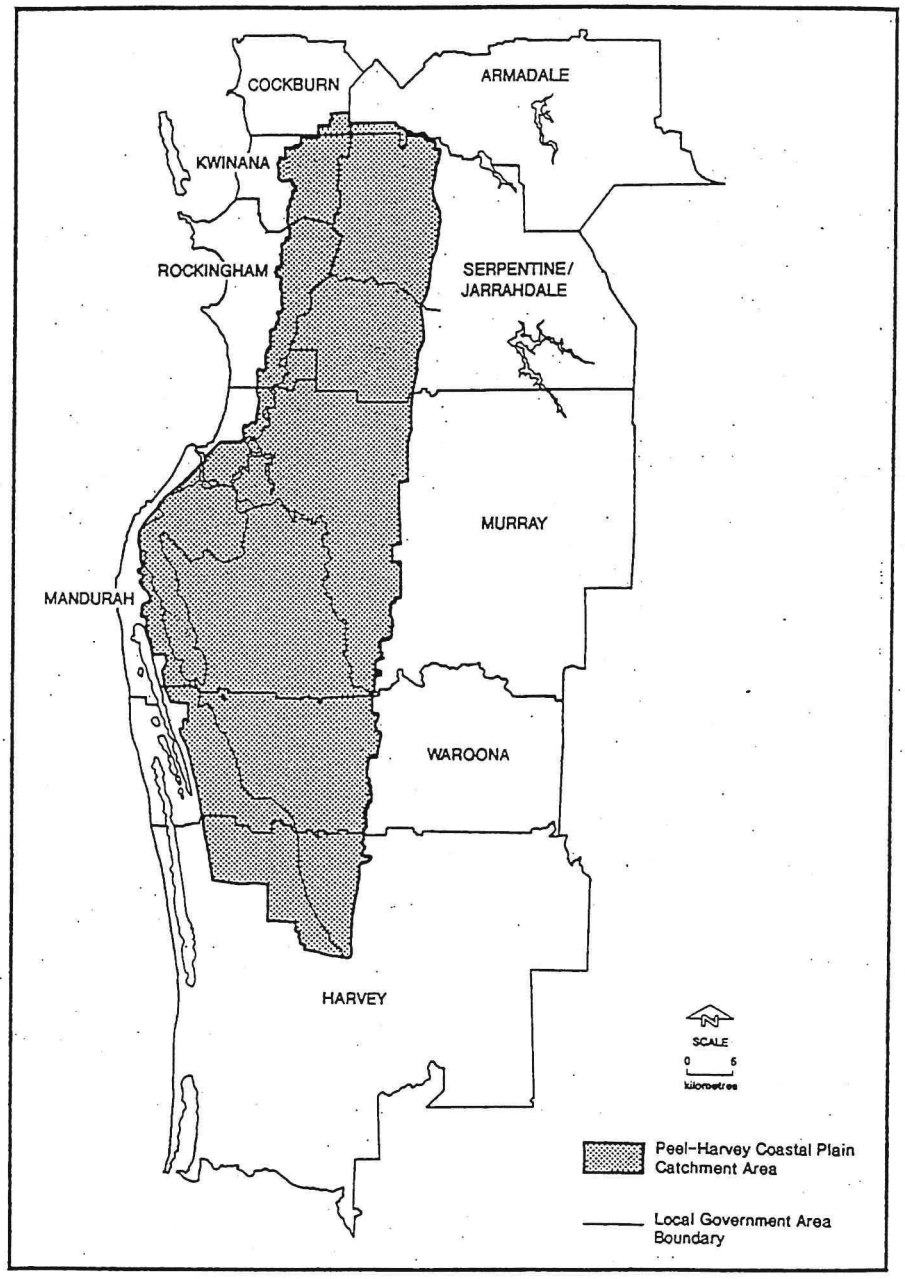

Figure 1: Boundary of the Peel-Harvey coastal catchment plan

APPENDIX 2

Summary of submissions and EPA response for the Draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999

December 1999

The draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999, was released on 11 November 1999 for a 3 week public comment period. Late submissions were accepted, provided they could be considered by the EPA prior to transmittal of the revised draft EPP to the Minister by the statutory deadline (11 December 1999).

A total of 24 submissions were received. All submissions have been summarised and the EPA's response to the matters raised has been provided (Table 1).

Notice of the release was published in the Government Gazette on 12 November 1999. Following the release of the draft policy, advertisements were placed in *The West Australian* and the local newspapers inviting submissions.

The draft policy was distributed to State Government departments, Local Government departments in the region, local Members of the Legislative Assembly and Legislative Council, industries in the region, numerous individuals who expressed interest, local groups and conservation groups. Copies of the draft policy were available at the head office of the Department of Environmental Protection and at its regional offices.

A list of the submitters to the draft policy is given in Table 2. The number and place of origin of submissions are listed below.

	Number
Individuals	6
Local groups	2
Conservation groups	8
Government: State	3
Government: Local	5
Total	24

Table 1. Summary of submissions to the draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999 and the response of the Environmental Protection Authority, December 1999.

Key to abbreviations

WRC	Waters and Rivers Commission
DOME	Dept. Minerals and Energy
HDWA	Health Dept. WA
WCG	Waterbird Conservation group
WSWA	Wildflower Society WA
CCWA	Conservation Council WA
MCG	Melville Conservation Group
PPG	Peel Preservation Group
UBCWA	Urban Bushland Council of WA
LMPS	Lake Mealup Preservation Society Inc
RREC	Naragebup Rockingham Regional Environment Centre
GS	Goodale Sanctuary Pty Ltd
NCE	Nyungah Circle of Elders
TK	Town of Kwinana
CAR	City of Armadale
CR	City of Rockingham
MP-CS	Christine Sharp - Member for South West

	General issue	Specific issue and comment (submittor number)	Action and response
WCG, WSWA, CR, UBCWA	Scope	The scope of the 1992 EPP inadequate. (WCG, WSWA) Roll-over supported. (CR) The use of the Seniors Officers Group is recommended for the review. (CR) Review the SPP. (CR) EPP too narrowly focused. (UBCWA)	The EPA notes these comments but does not consider it appropriate to respond at this stage as it is necessary to consider the outcome of the Review of the Progress and Compliance Report.
CM	Educate	Organise some workshops to educate and make public aware of the policy. (CM)	
CCWA, PPG, 23, CM	Policy area-Catchment	Extend the policy area to the whole catchment. (CCWA, PPG, CM, 23)	
WCG, LMPS	Monitor	Monitor waterbird usage, numbers, breeding, feeding, which occurred prior to the Dawesville Channel and afterwards. (WCG) Needs to be an adequate monitoring and compliance program. (LMPS)	
CCWA, GS, WCG, UBCWA, TK, WSWA, LMPS, 23, PPG	EQO	No net increase of phosphorus and nitrogen into rivers resulting from developments. (CCWA) Address the water quality problems of the lower reaches of the rivers. (CCWA) Total water quality protection is needed. (GS) Expand on the Environmental Quality Objectives to include phosphorus concentrations, nitrogen concentrations, condition and extent of remnant vegetation, condition and extent of saltmarsh, dissolved organic carbons and total dissolved solids. (WCG, CCWA, UBCWA, TK, WSWA, LMPS, 23) Moratorium on nutrient producing industries within policy area. (PPG) Examine the source of nitrogen and phosphorus and limit impact. (PPG)	
UBCWA, WCG, RREC, WSWA, TK, 10, 23, NCE	Vegetation	Include tight restrictions on clearing. (UBCWA) All remnant vegetation in the Policy area be protected (WCG, WSWA, RREC) Moratorium on clearing vegetation should be altered to achieve the objective of reversing the amount of clearing and encouraging retention. (TK, 10, 23) The EPP should mention the protection of Nyungah Cultural and Religious	

	General issue	Specific issue and comment (submittor number)	Action and response
		Sites and all Aboriginal Sites in their own right not just through the native vegetation and wetlands. (NCE) Planting along the drains to result in "living streams" should be promoted. (TK)	
WCG	Resources	Government to provided sufficient resources for monitoring, policing and investigation. (WCG)	
MP-CS, CCWA, WCG, TK, LMPS, RREC, DOME, GS, CAR, NCE, CR, LCDC	Consultation	Allow further comment after Review of Progress and Compliance Report. (MP-CS, CCWA, WCG, TK, LMPS, RREC, DOME, GS, CAR) Consult the Nyungah Elders and Native Title Claimants. (NCE) Three weeks consultation is too short (CR, LCDC - COOLUP)	
MP-CS, CCWA, UBCWA, PPG, 10, LMPS, 23	Beneficial use about residential	Concerned about beneficial use "use of the estuary as a focus for residential development." (MP-CS, CCWA, UBCWA, PPG, 10, LMPS, 23)	
CM, MP-CS	5e	Remove 5 (e) Reconsider the word focus in 5(e) (CM) Clause 5(e) should be completely removed from the policy. (MP-CS)	
LMPS, RREC	Residential pollution	Residential developments must be prevented from contributing high levels of nutrient to the estuary. (LMPS, RREC)	
MP-CS, MCG	Canal development	No further canal development considered within the estuary and its catchment. (MP-CS, MCG)	
PPG, 24, 23, GS	Dawesville Cut	Revise high water mark. (PPG) Dawesville Cut has now causing flooding. (24) "little effect in fringing vegetation has been observed from the Dawesville Cut" is disputed. (PPG, 23) Changes in migratory birds are already being observed. (GS)	
PPG	Greenhouse	Consider Greenhouse implications on estuary. (PPG)	
PPG, HDWA, MP-CS,	General	All wetlands should be protected like the "lakes" policy. (PPG) Length and width of Estuary is	

	General issue	Specific issue and comment (submittor number)	Action and response
MCG		underestimated. (PPG) Erosion survey - funding. (PPG) The review of the EPP should reconfirm whether the validity of the environmental assumptions about nutrient impact from on-site wastewater disposal systems is real or in need of reconsideration. (HDWA) State needs a population policy. (MCG) List "uses" in order of importance. (MP-CS)	
HDWA	Resources	Implementation of the EPP should consider reimbursement to local government and others to encourage compliance with environmental objects. (HDWA)	
9	Acid Sulphate Soils	Incorporate extent and effect of Acid Sulphate Soils in policy . (9)	
MCG	Peel Region Scheme	Consider Draft Peel Region Scheme in conservation values. (MCG)	
MP-CS, PPG, 23, 10, WCG, MCG	Buffers	Buffer zone should be 100 m. (MP-CS, PPG, 23) Large tracts of bushland should be retained as a buffer. (10) Reduction of foreshore buffers is condemned. (WCG, MCG) No development of buffers zones. (10)	
CCWA, UBCWA , WSWA	Conservation	Support need for protection of conservation values of the Peel Harvey system. (CCWA, UBCWA, WSWA)	
CCWA	Review EPP	The EPA needs to review effectiveness of the 1992 EPP, this has not occurred yet. (CCWA)	
CCWA	EPP process	Set down a procedure or process for ensuring that all EPP's are reviewed in a timely manner. (CCWA)	
24	Government agencies	Public authorities need to abide by the requirements of the policy. (24)	

Table 2. List of individuals and organisations who sent in a submission to the draft Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1999.

Submitter number	Organisation	Address1	Address2	Title	First name	Surname name	Position
1	Waterbird Conservation Group	10 Walcott St	MT LAWLEY 6050		J	Cammack	Secretary
2	Member of the Legislative Council	Brockman St,	BALINGUP 6253	Dr	Christine	Sharp	Member for the South-West
3	Conservation Council of WA	City West Lotteries House 2 Delhi St	WEST PERTH 6005	Mrs	Joan	Payne	Spokesperson on Wetlands
4	Urban Bushland Council	PO Box 326	WEST PERTH 6872	Ms	Angela	Carr	President
5	Town of Kwinana	Box 21	KWINANA 6966	Mr	Frank	Edwards	Chief Executive Officer
6	Wildflower Society of WA	PO Box 64	NEDLANDS 6909	Ms	Karen	Clarke	Conservation Officer
7	Peel Preservation Group Inc	Lotteries House 7 Anzac Place	MANDURAH 6210	Ms	Judy	Trembath	Member
8	Melville Conservation Group	47 Drew Rd	ARDROSS 6153	Ms	Olive	Langham	Convenor
9		PO Box 607	NEDLANDS WA 6009	Mr	Paul	Weber	Consultant
10		3 Bonsall Place	CARINE WA 6020	Mrs	Jennifer	Hawkes	
11	Health Department of WA	PO Box 8172 Stirling St	PERTH 6849	Mr	Paul	Psaila-Savona	Executive Director
12	Lake Mealup Preservation Society Inc			Mr	Peter	Wilmot	Secretary
13	Naragebup Rockingham Regional Environment Centre Inc	PO Box 5375	ROCKINGHAM BEACH 6168	Mr	Bob	Goodale	Convenor
14	Department of Minerals and Energy	100 Plain St	EAST PERTH 6004	Mr	Lee	Ranford	Director General

	WA						
15	Goodale Sanctuary Pty Ltd	218 Arcadia Dve	SAFETY BAY 6169		RJ & AF	Goodale	Property owner
16	Nyungah Circle of Elders	c/o PO GUILDFORD					Circle of Elders
17	City of Armadale	7 Orchard Ave	ARMADALE WA 6112		J	Adderley	Executive Director
18	City of Rockingham	PO Box 2142	ROCKINGHAM 6967	Mr	Garry	Middle	Manager, Strategic Planning & Environment
19	City of Mandurah	PO Box 210	MANDURAH 6210	Mr	Bryce	Bunny	Manager, Environmental Planning
20	Shire of Harvey	PO Box 500	HARVEY 6220	Ms	Marion	Gartrell	Acting Shire Planner
21	Coolup LCDC	Post Office	COOLUP 6214		J	Varris	Secretary
22	Westrail	GPO Box S1422	PERTH 6001	Mr	Jim	Ironside	Environmental Manager
23		25 Foreshore Cove	SOUTH YUNDERUP 6208		Ross & Maureen	Campbell	Property owner
24		897 Estuary Road	BOUVARD 6210		Rosemary & Gordon	Marshall	Property owner