



Draft State Planning Policy 5.4 - Road and Rail Noise

Submission to the Western Australian Planning Commission

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About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by its member companies who are responsible for most of the State's mineral and energy production and are major employers of the resources sector workforce in the State.

In 2016-17, the value of Western Australia's mineral and petroleum industry was \$105 billion. Iron ore is currently the State's most valuable commodity, and saw an increase in iron ore sales by almost 31 per cent on the previous financial year to value almost \$64 billion. Petroleum products (including LNG, crude oil and condensate) followed at \$19 billion, with gold third at \$11 billion, both of these commodities saw an increase in sales of 5 per cent and 7 per cent respectively from the previous financial year.

The resources sector is a major contributor to the state and Australian economies. The estimated value of royalties the state received from the resources sector was \$5.21 billion (iron ore contributed \$3.6 billion) which accounted for around 19 per cent of the State Government's revenue.

Recommendations

CME supports the Policy Objectives listed in Section 5 of the Draft State Planning Policy 5.4: Road and Rail Noise, particularly in relation to the protection of major transport corridors from incompatible urban encroachment. Therefore, CME recommends:

- In order to protect road and rail corridors from sensitive land use encroachment, it is essential that the application of SPP 5.4 by Local Governments is enforced.
- CME strongly recommends the Minister for Planning issue an order under section 77A of the PD Act requiring Local Governments to amend their Schemes such that SPP 5.4 is read as part of the Schemes, in the format set out in clause 29 of the Model Provisions in Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- CME recommends amending Region and Local Planning Schemes to incorporate the identification and protection of transport corridors and buffers.
- CME recommends all noise assessment be conducted by qualified professionals and be fed into the Local Government planning approval process.
- CME recommends SPP 5.4 be revised to require local governments to include transport corridors as Special Control Areas in Local Planning Schemes thereby ensuring the application of quiet house design requirements (or similar) to sensitive land-uses beyond the trigger distance.
- CME recommends all residential dwellings within the trigger distance including single houses, be required to comply with quiet house design requirements and SPP 5.4. This should be implemented through the Development Application approvals process for single house dwellings.
- SPP 5.4 should include the requirement for local governments to implement provisions into Local Planning Schemes which identify and protect land use for future freight corridors, strategic transport terminals, buffers and access to industrial assets.
- CME recommends noise screening assessments be undertaken for proposals near freight railways.
- SPP 5.4 should be updated to include a maximum internal noise level for single passby events.

Context

On 13 September 2017, the Western Australian Planning Commission (WAPC) released the revised State Planning Policy 5.4: Road and Rail Noise (SPP 5.4) and associated guidelines for public comment.

The revised SPP 5.4 aims to protect the State's key transport corridors whilst minimising the impact of road and rail noise on sensitive land uses. With urban expansion and increased residential development across Perth and Western Australia (WA), there are increased pressures on key resources sector infrastructure to maintain compatibility with residential development and other sensitive land uses.

Encroachment of sensitive land uses on industrial buffers and increasingly prohibitive policies is hindering resources companies from undertaking essential activities. There is a need to ensure the revised SPP 5.4 and guidelines adequately protect the ongoing need for industry to maintain access to, and use of, transport corridors across the State.

Efficient planning controls, including buffers to separate industrial areas and essential infrastructure from sensitive land uses, are critical to ensure land use conflict is minimised, and to facilitate the ongoing development and operation of productive resources sector projects.

Maintaining the integrity of these buffers is important for the management of road and rail noise generated through use of major transport corridors. These corridors are part of the State's logistics and freight network, which is essential infrastructure for the resources sector in WA.

SPP 5.4 presents a useful policy for use by the resources sector when assessing the potential impact of future changes in road and rail noise in relation to freight. The amendments to the current SPP 5.4 are relatively minor and conservative, and do not provide provision for the enforcement of local government application of the policy.

State and Local Planning Policy Disconnect

Western Australia manages transport and freight corridors using a combination of the *Planning and Development Act 2005* (PD Act), regional schemes, sub-regional strategies and frameworks, and local planning standards. At a local level, there is no requirement to implement the higher-order State Planning Policies. In turn, this has potential to cause uncertainty for the resources sector in how planning policies apply at the local level and their impact on project planning, investment and implementation.

This is reflected in the revised SPP 5.4, whereby the policy is applied using a tiered approach commencing with sub-regional strategies, followed by local schemes and activity centre plans, and lastly through development applications at a local level. However, there is no guarantee the principles of SPP 5.4 apply at the local government level.

Due to the lack of legislated requirement for SPP 5.4 at the local level, the policy has applied in an *ad hoc* manner to date due to differences in local level planning schemes. This has resulted in sensitive land use development adjacent to road and rail corridors and encroachment into industrial buffers. Without enforcement, it is likely the revised SPP 5.4 will continue to be applied inconsistently across the State.

Section 77(2) of the PD Act makes provision for state planning policies to have full legislative effect as if the policy were set out in full in the Local Planning Scheme. For example, many Local Planning Schemes require State Planning Policy 3.1: Residential Design Codes to be read as part of the Scheme, giving the Codes full legislative effect. If Local Planning Schemes required that SPP 5.4 were to be read as part of the Scheme, the provisions of SPP 5.4 would

apply in full in the Scheme area. Section 77A of the PD Act allows the Minister for Planning to order Local Governments to amend their Schemes to be consistent with a State Planning Policy.

In order to protect road and rail corridors from sensitive land use encroachment, it is essential that the application of SPP 5.4 by Local Governments is enforced.

CME strongly recommends the Minister for Planning issue an order under section 77A of the PD Act requiring Local Governments to amend their Schemes such that SPP 5.4 is read as part of the Schemes, in the format set out in clause 29 of the Model Provisions in Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Region and Local Planning Schemes

Region Planning Schemes are broad-brush planning documents providing overarching direction and allocation of land as zones or reserves, including broad classifications identifying use of the land; for example, urban, rural, industrial, open space, regional roads and port installations.

A Local Planning Scheme must be consistent with a Region Planning Scheme. Importantly, for a Local Government to rezone land to facilitate residential development, the land must have an urban zoning under the Region Planning Scheme.

Under the PD Act, Planning Schemes (both region and local), have effect as if they were enacted, meaning unlike policies and other instruments, Schemes have legislative effect. Consequently, Planning Schemes take precedence and have greater weight than State policy instruments.

Including the provisions of SPP 5.4 in Region and Local Planning Schemes would ensure the intent and design of the planning policy is implemented at a local level. Therefore, immediately following the SPP 5.4 review, **CME recommends amending Region and Local Planning Schemes to incorporate the identification and protection of transport corridors and buffers.**

Adequate Noise Assessment

Comprehensive noise assessment is critical for ensuring appropriate buffers are established and maintained for road and rail corridors. Not all local governments will have the internal capability to prepare or assess noise assessment results. This may have contributed to past instances of inappropriate sensitive land use encroachment on industrial buffers. Capability constraints within local government also have the potential to result in subjective assessment and application of SPP 5.4 provisions further contributing to inappropriate development of sensitive land uses near freight corridors. **CME recommends all noise assessment be conducted by qualified professionals and be fed into the Local Government planning approval process.**

The revised SPP 5.4 does not address design standards for sensitive land uses beyond the trigger distance. SPP 5.4 should require that Special Control Areas are in place for transport corridors where noise modelling predicts impacts will extend beyond the trigger distance. **CME recommends SPP 5.4 be revised to require local governments to include transport corridors as Special Control Areas in Local Planning Schemes thereby ensuring the application of quiet house design requirements (or similar) to sensitive land-uses beyond the trigger distance.**

Further, quiet house design requirements should be more stringent to accommodate increased use of corridors during peak times and increased utilisation as the State's economy grows.

The exemption for single house developments from SPP 5.4 (via their exemption from requiring development approval under clause 61(1)(c) and (d) of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*) is a significant omission. This exemption should not apply to land within the trigger distance, particularly given the high probability of single house developments adjacent to existing transport corridors. **CME recommends all residential dwellings within the trigger distance including single houses, be required to comply with quiet house design requirements and SPP 5.4. This should be implemented through the Development Application approvals process for single house dwellings.**

Protection of Freight Corridors, Buffers and Access to Strategic Infrastructure

Efficient planning processes, including the appropriate protection of transport corridors and industrial buffers, are important to facilitate the development and operation of productive resources sector projects (among other things). Inadequate planning may negatively affect the sector's social licence (regardless of the sector's performance) due to community complaints following sensitive land use encroachment on industrial lands and the emergence of incompatible land uses.

Of high importance to the resources sector is the clear definition, establishment and protection of transport corridors and their buffers that provide priority access to export facilities, as well as strategic industrial areas which provide services to the sector.

Western Australia's strategic industrial areas are important activity centres for resources sector operations and other supporting industries. Industrial areas play a vital role in the supply chains for projects through activities such as fabrication of components, as hubs for transporting commodities to global markets, and as centres of employment.

Industrial areas have unique strategic and geographic attributes making them suited to only a limited number of locations in Western Australia. Strong planning controls are therefore critical in these areas to minimise the risk of industrial operations being encumbered by the encroachment or intensification of future, potentially incompatible land uses.

While concerns regarding encroachment have largely centred on the metropolitan area such as Fremantle Port, the Mandogalup precinct and the Kwinana Industrial Area, the location of regional towns in close proximity to port facilities, rail infrastructure, strategic transport terminals, and industrial zones can also cause concern for some regional communities, such as Port Hedland.

As an outcome of the review, and in order for the Policy to be effectively implemented, **SPP 5.4 should include the requirement for local governments to implement provisions into Local Planning Schemes which identify and protect land use for future freight corridors, strategic transport terminals, buffers and access to industrial assets.**

Freight and Single passby noise

SPP 5.4 proposes a one-size-fits-all noise exposure forecast (NEF) for freight railways in Table 2 of the Draft Implementation Guidelines. Freight rail, and its associated noise, varies significantly in Western Australia. For example an iron ore freight train has a different noise level to a freight train carrying general cargo. Using the NEF table to draw a contour map could result in either an overstatement or understatement of the possible noise impacts from freight railways. Therefore, instead of applying the Noise Level Contour Map for freight railways, **CME**

recommends noise screening assessments be undertaken for proposals near freight railways.

Noise from a single train passby should be considered and addressed in SPP 5.4 as it is usually the passby (i.e. maximum level, rather than the average noise level) that has an impact on both amenity and health of people living in close proximity to road and rail.

The impacts on acoustic amenity can result in community irritation while the impacts on human health includes negative physiological effects, sleep disturbance and fatigue. Single passbys can result in complaints from the community. This is acknowledged in the Draft Implementation Guidelines which states “*short-term noise/vibration impacts have historically been the cause of various complaints in Western Australia.*” **SPP 5.4 should be updated to include a maximum internal noise level for single passby events.**

Conclusion

Road and rail corridors and their buffers should be protected through adequate planning and legislation. Failure to protect key road and rail corridors, buffers and access to strategic industrial assets threatens long-term economic prosperity for Western Australia.

Planning should transition heavy industrial areas through to light industrial areas (or other compatible land uses) to ensure sensitive receptors do not encroach upon these critical industrial activities. CME does not support the removal or reduction of existing buffers to allow encroachment or intensification of sensitive land uses adjacent to industrial activities.

There is a clear need to stop the disconnectedness between state planning policy and its implementation at the local level. The recognition of corridors and buffers in Region and Local Planning Schemes is the most effective way to prohibit or control land uses and provide statutory provisions for mitigation of impacts. Consequently, alignment between State Planning Policy and local implementation must be enforced.

In addition, robust noise assessment and mitigation measures, including more stringent enforcement of quiet house design requirements, are important tools in planning for future increased road and rail corridor use.

Where planning fails to protect existing buffers, this causes land use conflicts and manifests over time in impractical restrictions being placed on industry to address the underlying planning failure. This restricts economic productivity or eventually forces production to cease, as the cost of meeting progressively more onerous and impractical restrictions makes industrial activity uneconomic.

CME looks forward to further engagement with the Department on the review and update on the State Planning Policy to ensure robust planning controls are implemented for the State, protecting its economic health as well as its residents.

If you have any further queries regarding the above matters, please contact Caroline Cherry, Manager Economic Competitiveness, on (08) 9220 8514 or C.Cherry@cmewa.com.

Authorised by	Position	Date	Signed
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