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Environmental Policy and Support Services
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Draft Environmental Management and Pollution Control (Smoke) Regulations 2018

Thank you for the opportunity to provide input on the Draft *Environmental Management and Pollution Control (Smoke) Regulations 2018* (the Draft Regulations). The Local Government Association of Tasmania (LGAT) is incorporated under the *Local Government Act 1993* and is the representative body for Local Government in Tasmania.

The purpose of LGAT is to:

- Protect and represent the interests and rights of Councils in Tasmania;
- Promote an efficient and effective system of Local Government in Tasmania; and
- Provide services to Members, councillors and employees of Councils.

LGAT fully supports those councils that have made their own submissions to the consultation process. Where a council has made a direct submission to this process, any omission of these specific council comments in the LGAT submission should not be viewed as lack of support by the Association for that specific issue.

Overall, councils are supportive of the Draft Regulations and appreciate the consultation that has taken place to date. The following comments have been provided by councils.

General Comments

1. There is already confusion regarding the competing State Government policy aims of limiting the nuisance caused by 'backyard burning' and ensuring individuals and communities build resilience to bushfire risk. The Draft Regulations exacerbate this confusion and conflict by increasing the land area for burning vegetation. In addition, this change is likely to cause a significant increase in compliance issues for councils. This area of the Draft Regulations requires further consideration, however options for resolving this could include returning to the 2000m² land area or using land use zoning (such as Residential) as the trigger. The Draft Regulations must strike a reasonable balance between controlling occasional backyard burning with the need to protect community health and safety.
2. The Draft Regulations confers responsibility for addressing wood smoke primarily with Local Government. However, councils, especially small rural councils, are not typically resourced to assess complaints outside of business hours. Population exposure to wood smoke is not an issue that occurs only Monday to Friday between the hours of 9.00am to 5.00pm. With continued pressure on councils to minimise rate increases, there needs to be consideration, with any and all new statutory obligations, of the cumulative effect on resources and costs for councils.
3. For several years, prescriptive criteria, similar to that within Draft Regulation 7, has largely proven to be ineffective in catering for real world scenarios. For example, in residential areas it is not uncommon to find neighbouring dwellings separated by distances of less than 10m, or on hilly terrains, where there is a chimney at the same level as the window of an adjacent dwelling. This is only one example but suggests that mechanisms which allow for practical judgement to be more easily applied by compliance officers should be considered.

Specific Comments

Part 1: Interpretation

- Add the terms “Authorised Officer”, “Council Officer”, “Vegetation”, “Vegetative waste” and “dry”, as they are referred to in Clause 7(2) and (3).

Part 2 Clause 6

- Include a regulation that prevents a person from installing a non-compliant or modified heating appliance.

Part 3 Clause 7

- Consider an exemption where a planning permit is in place for an event (e.g. festivals, cultural events, etc.).
- Suggest adjusting penalties for natural persons/body corporates, as Clause 7 is not restricted to residential premises.
- Suggest adding a sub regulation to Clause 7(1) to ensure heating appliance use is also in accordance with local by-laws. E.g. add Clause 7(1)(c), similar to Clause 9(1)(c).

Part 4 Clause 9

- The *Distributed Atmospheric Emissions Regulations 2018* clause 9(2) provided for issuing a notice giving 21 days to rectify a situation. This provision has not been included in the Draft Regulations, does this mean that councils will escalate to enforcement without the opportunity for the proponent to rectify the situation? The provision to issue a notice should be re-instated.
- In Clause 9(1)(d) it is unlikely that proponents will request an Environment Protection Notice due to cost and effort required. It is difficult to see when this regulation would be used and therefore it is suggested that it is removed.

Please feel free to contact Penny Finlay at penny.finlay@lgat.tas.gov.au on 6239 5967 for further information.

Yours sincerely



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