

Hon Albert Jacob MLA
Minister for Environment; Heritage

Our Ref: 50-15190

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament of Western Australia
GPO Box A11
PERTH WA 6837

Attention: Ms Margaret Liveris – Committee Clerk

Dear Mr O'Brien

I refer to the Standing Committee on Environment and Public Affairs' *Report 45 – Petition No. 59—Bio-Organics Composting Facility, Oakford*.

The State Government has considered the Committee's report. Please find enclosed the response to the findings and recommendations.

I take this opportunity to thank the Committee for its work and findings regarding this matter.

In general, I agree with the Committee's findings and recommendations. The Department of Environment Regulation, formed in 2013, has taken significant and proactive steps to address the systemic failures identified in the Committee's report. As the Committee's report identified, decisive regulatory action occurred in 2013 and has continued since then in relation to the Bio-Organics facility. Prosecution notices were recently issued by the Department against Bio-Organics for alleged failures to comply with the closure notice.

The Department's failings in relation to the Bio-Organics composting facility were the primary catalyst for a comprehensive reform program which commenced in 2014. I am aware that many of the recommendations of the Committee had already been identified and actions have subsequently been taken by the Department. These are outlined in detail in the enclosed response.

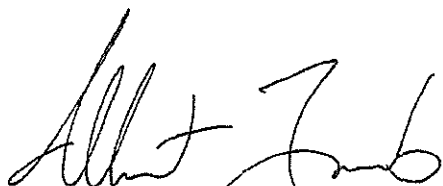
The Department's reform program will ensure comprehensive risk-based assessments are undertaken, increased transparency in decision making, and improvements in regulatory conditions. The reform program also includes the development of environmental standards and guidelines. In particular, the completion of the draft environmental standard for composting activities will be a significant step towards preventing the issues identified by the Committee from occurring in the future.

The Department has also been successfully piloting the progressive implementation of its new risk-based regulatory framework. These pilots have been critical in demonstrating the benefits of the regulatory framework and have enabled the Department to critically assess the regulatory framework in application.

The implementation of the regulatory framework requires workforce training and development. The Department has advised me that intensive workforce training and development has been a critical priority over the past six months and will continue to be a key focus in the immediate term.

The Committee's report affirms the need for the significant changes to environmental regulation which the Department has been undertaking since 2013 with the full support of the State Government.

Yours sincerely



Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

Enc.

15 NOV 2016

**GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS REPORT
INTO PETITION NO. 59—BIO-ORGANICS COMPOSTING FACILITY, OAKFORD**

Recommendation	Government Response	Actions
<p>Recommendation 1: The Committee recommends that the Minister for Environment examines the inconsistencies in the recording of load measurements in the Controlled Waste Tracking System and consider adopting a standard unit of measurement.</p>	<p>Supported in Principle.</p>	<p>The Department of Environment Regulation will further examine and advise the Minister for Environment on the costs, benefits and any practical impediments to the introduction of a single unit of measure for the Controlled Waste Tracking System.</p>
<p>Recommendation 2: The Committee recommends that comprehensive data in relation to the treatment and disposal of controlled waste in Western Australia be publicly reported.</p>	<p>Supported, this is consistent with work currently underway.</p>	<p>The Department of Environment Regulation will further examine and advise the Minister for Environment on any legislative or other barriers to the publication of Controlled Waste Tracking System data.</p> <p>The Department of Environment Regulation will publish annual aggregated data as an interim measure.</p>

**GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS REPORT
INTO PETITION NO. 59—BIO-ORGANICS COMPOSTING FACILITY, OAKFORD**

Recommendation	Government Response	Actions
<p>Recommendation 3: The Committee recommends that the Minister for Environment investigate and report to the Legislative Council on the cause of the system failure that resulted in the department issuing Bio-Organics with a licence to operate without verification of compliance with works approval specifications.</p>	<p>Supported, investigation has been undertaken by the Department of Environment Regulation.</p>	<p>The Department of Environment Regulation has addressed the specific issues which resulted in the granting of a licence without verification of compliance with works approval specifications.</p> <p>The Department has investigated the cause of the failure and through this response, reports that the system failure resulted primarily from:</p> <ul style="list-style-type: none"> • custom and practice which failed to require or maintain a record of appropriately qualified engineering certification that containment infrastructure was constructed in accordance with specifications set out in the works approval; • systemic custom and practice which failed to decline to deal with the licence application on the basis the works had not been completed in accordance with the requirements of the works approval; and • custom and practice which failed to specify the requirement to maintain containment infrastructure to the required specification as a condition within the licence as an ongoing obligation.

**GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS REPORT
INTO PETITION NO. 59—BIO-ORGANICS COMPOSTING FACILITY, OAKFORD**

Recommendation	Government Response	Actions
<p>Recommendation 4: The Committee recommends that the Department of Environment Regulation adopt procedures to assert the requirement to verify compliance with works approval specifications before a licence to operate is issued.</p>	<p>Supported, this is consistent with work currently underway.</p>	<p>The Department has established a new Regulatory Framework that has resulted in new conditions and procedures relating to:</p> <ul style="list-style-type: none"> • the documentation and details of works approval specifications; • the verification of compliance of works approval specifications by suitably qualified professionals. <p>The Department is in the process of finalising this Regulatory Framework and intends to apply its reform approach to all new applications and reviewed licensed premises from November 2016.</p> <p>The Department has also implemented coordinated proactive compliance programs since the 2011-12 financial year, focusing on inspections of Part V licensed premises based on risk. In 2015-16 the Department refined its compliance program planning to include more intelligence based compliance activities using information from complaints and incidents as well as controlled waste intelligence reporting and annual environmental returns. The 2016-17 Annual Compliance Program will also align to full re-assessment of the environmental risks of existing premises.</p>

**GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS REPORT
INTO PETITION NO. 59—BIO-ORGANICS COMPOSTING FACILITY, OAKFORD**

Recommendation	Government Response	Actions
<p>Recommendation 5: The Committee recommends that the Department of Environment Regulation's investigation of the nature and extent of potential groundwater contamination include identification of the extent to which non-compliant infrastructure or operational activities caused or contributed to contamination.</p>	<p>Supported.</p>	<p>The Department will determine the nature and extent of contamination through the contaminated sites investigation.</p>
<p>Recommendation 6: The Committee recommends that the results of the Department of Environment Regulation's groundwater monitoring and investigation programme, including conclusions regarding the source of contamination, are made public.</p>	<p>Supported.</p>	<p>The Department will publish on its website the results of the groundwater monitoring and investigation programme when complete.</p>
<p>Recommendation 7: The Committee recommends that the Department of Environment Regulation conduct a contamination assessment of the vineyard (Lot 6) adjacent to the Bio-Organics site.</p>	<p>Supported.</p>	<p>The Department intends to issue an environmental protection notice in relation to the vineyard (Lot 6) adjacent to the Bio-Organics site. The Department has afforded the occupiers of the vineyard an opportunity to comment and will finalise the environmental protection notice following consideration of these comments.</p>