

APPENDIX

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Environmental Protection Authority

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our ref: 644/02

REFERRAL OF DEVELOPMENT APPLICATION MEATH CARE
FACILITY, HOCKING ROAD KINGSLEY

I refer to your letter of 14 January 2005 referring the above proposal to the Environmental Protection Authority (EPA) for a decision about assessment of the proposal under Section 38 of the *Environmental Protection Act 1986* (EP Act).

The EPA has considered the previous advice it provided on the Metropolitan Region Scheme (MRS) Omnibus Amendment No. 1037/35 and the City of Joondalup Town Planning Scheme (TPS) 2 Amendment No 12 as well as information provided by the City of Joondalup about the proposed management of the development and the advice provided by the technical agencies, in particular the advice of the Department of Environment (DoE) with regard to Acid Sulphate Soils (ASS). The EPA has decided that the above development is a proposal under an assessed scheme and therefore your letter of 14 January 2005 cannot be accepted as a referral under section 38 of the EP Act. The City of Joondalup has been advised by the EPA that it need not refer the proposal.

Consideration of Amendments

The EPA considered MRS Omnibus Amendment 1037/33 in June 2001. The EPA decided not to assess this amendment but did provide advice which acknowledges that the boundary of the wetland was established through the MRS Amendment.

The City of Joondalup, Town Planning Scheme (TPS) 2 Amendment No 12 was considered by the EPA in May 2003. The EPA decided not to assess the amendment however advice was provided regarding the key environmental issues of:

- site contamination;
- wetlands;
- vegetation;
- groundwater quality; and
- land use conflicts.

As the EPA made a decision not to assess the amendments there were no Environmental Reviews and correspondingly there are no environmental conditions to which the assessed scheme is subject.

Under the provision of Section 48 A (1)(a) of the EP Act the Scheme Amendments are deemed assessed.

In view that decisions have been made on the Scheme Amendments, Section 48 I (Proposals under assessed schemes) of the EP Act provides:

- (1) Despite section 38, when a proposal under an assessed scheme that appears likely if implemented to have a significant effect on the environment comes to the notice of the responsible authority in respect of the assessed scheme, that responsible authority shall determine whether or not -
- (a) the environmental issues raised by that proposal were assessed in any assessment of the assessed scheme under this Division; and
 - (b) that proposal complies with the assessed scheme and any conditions to which the assessed scheme is subject.
- (2) If the responsible authority determines under subsection (1) that -
- (a) the environmental issues raised by the proposal were assessed in any assessment of the assessed scheme under this Division; and
 - (b) the proposal complies with the assessed scheme and any conditions to which the assessed scheme is subject,

the responsible authority need not refer the proposal to the Authority under section 38'.

As was indicated in correspondence to the City of Joondalup on 15 November 2005 (a copy of which was provided to you) the EPA's advice on the Town Planning Scheme amendment envisaged that additional investigations may be warranted at the Development Application stage and also that technical advice should be sought from relevant agencies including the Department of Environment (DoE). The outcome of these additional investigations was expected to inform the City about whether the Development Application (proposal) would be likely to have a significant impact on the environment, noting that a referral to the EPA under Section 38 of the EP Act is also predicated on a judgement about the environmental significance of the proposal impacts. Appropriate investigations can therefore improve the level of confidence about whether environmental issues are likely to be significant and also, whether the environmental impacts can be reduced through management such as applying Development Application conditions.

In view of the above, the EPA's decision that the Development Application is a proposal under an assessed scheme is because:

- matters concerning the establishment of an agreed boundary of the wetland were established as part of the MRS; and
- investigations undertaken by the proponent in relation to ASS and reviewed by the DoE indicate that sufficient is known to demonstrate that it is not a significant environmental issue and also that it can be monitored and, if need be, contingency management measures applied during the development phase to ensure that ASS, including the potential impacts of dewatering are addressed. In this regard, the EPA has recommended to the City of Joondalup that Foot Note 8 be changed to inform the applicant that the land is located within the Whitfords Sub-area of the Perth Groundwater Area where there is a requirement to obtain a Groundwater Licence before a bore or well can be constructed, and for the use of groundwater, including dewatering, in accordance with the *Rights in Water and Irrigation Act 1914*. The issue of a Licence is not guaranteed but if issued will contain a number

of conditions. The requirement for this licence will ensure that dewatering is not to occur unless a licence has been applied for and granted by the DoE. Therefore, if dewatering were required, then the requirements for monitoring and management recommended by the DoE Land and Water Quality Branch can be given effect through this Licence.

If you would like to discuss any of the matters raised above please contact Mark Jefferies on 9222 7036.

Yours sincerely



K J Taylor
DIRECTOR
ENVIRONMENTAL IMPACT ASSESSMENT

6 December 2005