

Ordinary Council Meeting

8 July 2020

Minutes



Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website www.kwinana.wa.gov.au

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Present:

MAYOR CAROL ADAMS, OAM DEPUTY MAYOR PETER FEASEY CR M KEARNEY CR S LEE CR M ROWSE CR S WOOD CR W COOPER – Arrived at 5.39PM

MR W JACK - Chief Executive Officer
MR D ELKINS - Director City Infrastructure
MRS M COOKE - Director City Regulation
MRS M BELL - Director City Legal

Members of the Press 1 Members of the Public 3

1 Opening and announcement of visitors

Presiding Member declared the meeting open at 5:31pm and welcomed Councillors and the City Officers in attendance.

2 Acknowledgement of country

Presiding Member to read the Acknowledgement of county

"It gives me great pleasure to welcome you all here and before commencing the proceedings, I would like to acknowledge that we come together tonight on the traditional land of the Noongar people and we pay our respects to their Elders past and present."

3 Dedication

Deputy Mayor Peter Feasey to read the dedication

"May we, the Elected Members of the City of Kwinana, have the wisdom to consider all matters before us with due consideration, integrity and respect for the Council Chamber.

May the decisions made be in good faith and always in the best interest of the greater Kwinana community that we serve."

4 Attendance, apologies, Leave(s) of absence (previously approved)

Apologies

Nil

Leave(s) of Absence (previously approved):

Councillor Dennis Wood from 11 June 2020 to 31 July 2020 inclusive.

5 Public Question Time

Nil

6 Receiving of petitions, presentations and deputations:

6.1 Petitions:

Nil

6.2 Presentations:

Nil

6.3 Deputations:

Nil

7 Confirmation of minutes

7.1 Ordinary Meeting of Council held on 24 June 2020:

COUNCIL DECISION

201

MOVED CR S LEE

SECONDED CR M ROWSE

That the Minutes of the Ordinary Meeting of Council held on 24 June 2020 be confirmed as a true and correct record of the meeting.

CARRIED 6/0

8 Declarations of Interest (financial, proximity, impartiality – both real and perceived) by Members and City Officers

Mayor Carol Adams declared an impartiality interest in item 17.2, Joint Development Assessment Panel Applications - General Industry- Storage Tank, Private Utility (Pipelines) and Associated Infrastructure – Lots 12 And 506 Kwinana Beach Road, Kwinana Beach, due to the applicant, Coogee Chemicals is a member of the Kwinana Industries Council (KIC), who are her husband's employer. KIC as the administrative body have also noted support for the application.

| 9 Requests for leave of abser | Се |
|-------------------------------|----|
|-------------------------------|----|

Nil

10 Items brought forward for the convenience of those in the public gallery

Nil

11 Any business left over from previous meeting

Nil

12 Recommendations of committees

Nil

13 Enbloc reports:

Nil

14 Reports - Community

Nil

15 Reports – Economic

15.1 Submission on Australian Marine Complex Draft Strategic Infrastructure and Land Use Plan

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

The Australian Marine Complex (AMC) is located in the City of Cockburn and is the northern most part of the Western Trade Coast. The AMC is focussed on naval ship building and maintenance for both commercial and defence purposes and the allied industries that support such works.

The Draft Strategic Infrastructure and Land Use Plan (the plan) sets out how the AMC could develop over the coming decades to support expansion of the industry. Broadly, City Officers recommend supporting the plan, however recommend examining other opportunities that may become apparent following the finalisation of the Westport Strategy. It is recommended that Council endorse the proposed submission in Attachment A.

OFFICER RECOMMENDATION:

That Council endorse the proposed submission (Attachment A) to the Australian Marine Complex Draft Strategic Infrastructure and Land Use Plan.

DISCUSSION:

The AMC has been successful in attracting major commercial and defence ship building contracts and has demonstrated Western Australia's ability to be a commercially viable location for specialised ship building. The precinct is largely developed and there is likely to be ongoing demand for intensification and expansion over the coming years.

The plan has been developed to guide land use and infrastructure decisions over the coming year and notes opportunities to expand the AMC. While the concept plan is generally sound in its approach, opportunities to examine how AMC relates to the wider Western Trade Coast have been lost, given the lack of a masterplan for the region. The City has advocated for this missing plan for some time and there is a general acceptance for a need for further regional planning once the Westport study into a new Outer Harbour in Kwinana has been finalised.

The plan correctly identifies risk to the precinct from a single channel in Cockburn Sound, an issue that will need resolving regardless of the outcome of Westport. It is recommended that this issue be addressed as part of this plan. Further, the need for additional studies surrounding transport access, economic development and high and wide load corridors are suggested.

15.1 SUBMISSION ON AUSTRALIAN MARINE COMPLEX DRAFT STRATEGIC INFRASTRUCTURE AND LAND USE PLAN

There are clearly regional opportunities that may be created if the scope of this plan was extended to include Rockingham Industry Zone, Kwinana Industrial Area, Latitude 32 and Westport. Considerations such as regional transport linkages, spatial land uses and dry docking facilities could be considered at a range of sites across the area. Therefore it is recommended to defer the finalisation of the plan until such time that the Westport Taskforce has delivered their recommendations which may create other options and opportunities for AMC.

A summary of the Draft Strategic Infrastructure and Land Use Plan is included in Attachment B (a full version of the report is available online, however is not included in this report due to size constraints).

LEGAL/POLICY IMPLICATIONS:

There are no legal implications as a result of this report.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications as a result of this report.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications as a result of this report.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Strategic Community Plan.

| Plan | Objective | Strategy |
|--------------------------|-------------------------------|------------------------------|
| Strategic Community Plan | 2.4 The Western Trade Coast | Indian Ocean Gateway Project |
| 2019-2029 | Precinct is developed with | , |
| | maximum leverage being gained | |
| | from investments in new | |
| | infrastructure | |

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report.

15.1 SUBMISSION ON AUSTRALIAN MARINE COMPLEX DRAFT STRATEGIC INFRASTRUCTURE AND LAND USE PLAN

PUBLIC HEALTH IMPLICATIONS:

There are no public health implications as a result of this report.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

| Risk Event | AMC is not aware of regional opportunities related planning the broader Western Trade Coast. |
|--|---|
| Risk Theme | Providing inaccurate advice/ information |
| Risk Effect/Impact | Reputation |
| Risk Assessment Context | Strategic |
| Consequence | Moderate |
| Likelihood | Possible |
| Rating (before treatment) | Moderate |
| Risk Treatment in place | Share - Share with another party |
| Response to risk treatment required/in place | Make submission to AMC to make them aware of the regional opportunities and ask them to take it into account in the final plan. |
| Rating (after treatment) | Moderate |

COUNCIL DECISION 202 MOVED CR M KEARNEY

SECONDED CR S WOOD

That Council endorse the proposed submission (Attachment A) to the Australian Marine Complex Draft Strategic Infrastructure and Land Use Plan.

CARRIED 6/0

Submission on Australian Marine Complex Draft Strategic Infrastructure and Land Use Plan

Thank you for the opportunity to comment.

Broadly, the City of Kwinana supports the creation of the Draft Strategic Infrastructure and Land Use Plan (the plan) as it provides for the growth of the AMC. However it is the City's view that the plan could be further developed to have greater regard to the broader context of the site within the Western Trade Coast .

The City is a key advocate for a much broader industrial/employment land use plan to be prepared covering the entirety of the Western Trade Coast that would include the consideration of transport and infrastructure requirements to support the plan.

The Cockburn Sound is a well-used and highly-contested area. The lack of certainty over the future configuration of Westport may see lost opportunities, particularly in coordination and synergies that could come through the well planned development of interconnected port, naval and industrial uses spaces along the coastline. For this reason, it is recommended that the finalisation of the AMC (Australian Marine Complex) plan be deferred until the Westport Taskforce findings are publicly available. Some concepts for a new Outer Harbour in Kwinana have included facilities such as graving docks and new loading spaces for oversized equipment that may be duplicated in the plan being considered. There may also be greater opportunities for the use of Latitude 32 to play a larger role in the support services required, if a land backed intermodal is the outcome recommended, as listed in Westport's shortlisted options.

The report correctly identifies the single channel into AMC as a risk if the channel becomes blocked. The report also identifies reducing this risk through the installation of a second channel. Presumably this risk is shared by the current 800 vessels per year that visit the current Kwinana Port as well as Australian Naval operations in the region. This risk is not noted in the Opportunities and Constraints in section 5 of the report, and it is recommended that the issue be recorded here and that a study to address the viability of such works be added to Section 8 of the report.

The City would also recommend that the AMC report make reference to the need for additional regional studies including:

- Western Trade Coast Masterplan;
- Western Trade Coast Economic Development Strategy;
- Western Trade Coast Integrated Land Use and Transport Plan; and
- ➤ High and Wide Load Planning taking into consideration the Perth Freight Network and Westport recommendations.

Proceeding with these studies focussed entirely on the AMC will not give rise to the regional opportunities that could be identified at the larger scale. The region can develop in a more coordinated manner if the Rockingham Industry Zone, Kwinana Industrial Area, Latitude 32, Westport and AMC are planned as complementary components of a functioning Western Trade Coast. While finalising the Strategic Infrastructure and Land Use Plan before the regional planning is finalised may be appealing, it will not be in the interests of the long term capabilities of this region.







Industry and Community Consultation

June 2020

Consultation period closes at 5pm on Friday 24 July 2020

Introduction

The Western Australian Government is seeking the views of the community, industry, land owners and local businesses on the Australian Marine Complex Draft Strategic Infrastructure and Land Use Plan (the plan).

When finalised, the plan will guide future land and infrastructure upgrades in the Australia Marine Complex to meet the needs of the defence, marine and resources sectors, as well as support economic growth and job creation.

This document summarises the key parts of the draft plan. The full draft plan and stakeholder submission form are available on the Department of Jobs, Tourism, Science and Innovation's website www.jtsi.wa.gov.au/SILUP

About the AMC

Located 23km south of Perth, the Australian Marine Complex (AMC) is a specialised strategic industrial area used by the marine, defence and resources sectors.

Common activities undertaken within the AMC include manufacturing, fabrication, assembly, repair and maintenance.

Since 2003, the AMC has become home to hundreds of businesses and has played a key role in the delivery of many major projects, economic growth and jobs creation in Western Australia.

Strategic planning for the development of the AMC is a key action of Western Australia's Defence and Defence Industries Strategic Plan.



Why is the plan required?

The plan sets out actions to deliver the Western Australian Government's vision for the AMC to:

- » be the **principal location** for all maintenance and sustainment of Australia's submarines and frigates
- » enable national and international expansion of Western Australia's defence, marine and resource industry capabilities
- » facilitate economic development and diversification opportunities created by the clustering of defence marine and resource industries
- » provide common user infrastructure and land to meet the needs of defence, marine and resources industries
- » enable colocation of businesses across the marine, defence and resources sector supply chains
- » enable **research and development activities** that promote cross-sector collaboration and innovation

As one of just two locations identified for naval ship building in Australia, the AMC is of strategic national importance.

The plan ensures the AMC has the long-term capacity to meet the future needs of the defence industry, while continuing to support the marine and resource sectors that already use the AMC to undertake major projects in Western Australia.

By developing the AMC to meet the requirements of the defence, marine and resources sectors, the WA Government is strengthening the economy and creating jobs.



How has the plan been developed?

The Department of Jobs, Tourism, Science and Innovation is managing the development of the plan for the Western Australian Government.

Consultant, Advisian, was contracted by the department to work in collaboration with DevelopmentWA to develop the plan.

The plan was informed by initial consultation with key stakeholders in the AMC to gather information, identify existing issues and determine future requirements.

Option Development and Assessment Gap Analysis Plan Finalisation **Draft Plan** Draft Plan Collection Consultation

What is in plan?

The plan has three main components:

- » precinct-wide infrastructure upgrades
- » a single concept for the northern harbour
- » two concepts for the southern harbour.

The plan reinforces the current strengths of the southern and northern harbour, and ensures future activities in each are supported by appropriate infrastructure and planning.

What precinct-wide infrastructure upgrades are proposed?

The plan identifies precinct-wide upgrades which focus on traffic flow, transit options, safety and amenities for the AMC workforce.

These upgrades include:

- » multi-storey car parks
- » improved intersections
- » options for upgraded public transport services
- » an improved pedestrian environment

The plan also identifies key vacant sites for future development opportunities:

- » Technology precinct
- » Lot 101 connected to the Common User Facility in the southern harbour
- » Lots 15, 16 and 17 in the northern harbour

What waterfront concepts are proposed?

Northern harbour

The plan provides a single northern harbour concept to ensure continued support for commercial shipbuilding and maintenance activities.

Key proposed infrastructure includes:

- » extension of Clarence Beach Road and utilities north to Lots 15, 16 and 17
- » a land-backed wharf, a potential vessel transfer facility, and fabrication buildings
- » vessel transfer path connecting the northern harbour to the southern common user facility



Southern harbour

The plan provides two concepts for the southern harbour that meet defence sector requirements and ensure continued support for major project delivery in the marine and resources sectors.

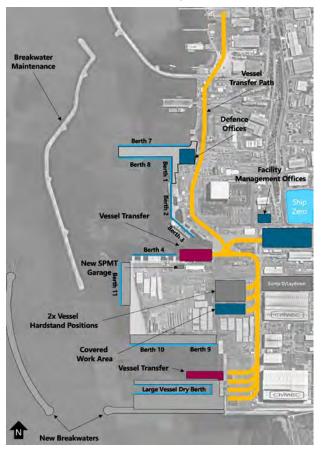
Both concepts propose the following new infrastructure:

- » Multiple **new berths** to accommodate future Defence requirements.
- » A new fabrication shed and two outdoor hardstand positions to accommodate vessel sustainment and disposal activities.
- » New vessel transfer paths.
- » **New breakwaters** to shelter berths in the southern portion of the harbour.
- » A new large vessel dry berth to support out-of-water activities on vessels too large for the upgraded ship lift.

Southern harbour concept 1



Southern harbour concept 2



How can I participate in the consultation period?

1. Make a written submission

Local businesses, landowners, nearby residents and other interested parties are invited to make written comment on the content and concepts of the plan.

An electronic consultation form has been developed to provide a simple method for both the public and industry to submit feedback. This form is available on the Department of Jobs, Tourism, Science and Innovation's website. www.jtsi.wa.gov.au/SILUP

Written submissions can be sent by email to amcconsult@advisian.com or mail to

Department of Jobs, Tourism, Science and Innovation Level 11, 1 William Street Perth WA 6000

The consultation period closes at 5pm on Friday 24 July 2020.

Submissions will not be accepted after this date.

For further information on providing a submission, please contact the Department of Jobs, Tourism, Science and Innovation on (08) 6277 3000 or jtsi@jtsi.wa.gov.au

2. Participate in online forums

You can hear more about the plan at one of four online information forums before making a written submission:

- » Community 10am to 11am on Thursday 9 July 2020
- » AMC Businesses 1pm to 2pm on Monday 13 July 2020
- » Community 5pm to 6pm on Wednesday 15 July 2020
- » AMC Businesses 1pm to 2pm on Friday 17 July 2020

Register to attend an online forum by emailing amcconsult@advisian.com. You can also submit questions to be answered at the online forum via the same email address. Further information on the format of the forums will be provided after you register.

3. One-on-one meetings

Limited one-on-one meetings are available on request. Email amcconsult@advisian.com for further information.

What happens next?

Feedback from this consultation process will be considered and used to finalise the plan for release by the Western Australian Government later in 2020.

All stakeholders who make a submission on the plan will be informed when the final plan is released.

16 Reports – Natural Environment

16.1 City of Kwinana Submission on the Review of the Waste Levy

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

The Western Australian Department of Water and Environmental Regulation released the "Review of the waste levy consultation paper" in February 2020 (see Attachment C), inviting feedback from stakeholders by 15 July 2020.

The consultation paper, includes 16 questions across a range of themes, including the objective of the levy, how the levy can help achieve the objectives of the Waste Authority's Waste Strategy 2030, rate of the levy and setting of future rates, geographical area of the levy, waste management options to be levied, and any other improvements. The City's detailed responses to the consultation paper are outlined in the City's submission (see Attachment A), and includes key messages as follows:

- The levy should aim to minimise the generation of waste and maximise the recovery of waste materials. The current design of the levy sees only 25% of funds collected directed to waste solutions, and 75% of funds directed to State Government general operations. This is a contradiction if the levy is intended for waste solutions. If the State Government is truly committed to achieving the targets of the Waste Strategy 2030, then the purpose of the levy should be made clear, and the use of levy funds should be prioritised to waste solutions and not State Government general revenue.
- The existing levy could be used more effectively to address the challenges currently facing the waste management industry, including the impacts of the Chinese National Sword Policy and covid global pandemic recovery. Levy funding should be applied with improved transparency and strategic prioritisation so as to actually contribute to meaningful waste management solutions for current industry challenges.
- Incentive or control is required to reduce non-recoverable waste being generated by manufacturers of products and packaging. The current system levies waste managers dealing with waste materials, however waste managers have no control over the production of these materials and the fact that many are difficult or impossible to viably recover. Successful transition towards the desired circular economy is unachievable until non-recoverable waste generation is reduced, and the use of recycled materials in products and packaging is increased; neither of which are influenced by the current levy system.
- Increasing the cost or scope of the waste levy will increase illegal dumping and levy avoidance. The cost of illegal dumping is unfairly borne by ratepayers, and this cost is exacerbated by ongoing increases to the rate of the levy, which not only increases the prevalence of dumping, but increases the cost of lawful disposal of each tonne of illegally dumped material collected from Local Government managed lands.
- The City will not support any change to any aspect of the waste levy, including any increased rate or introduction to Energy from Waste (EfW), without clear evidence based benefits to waste management outcomes being demonstrated by the State Government.

- Long term commitment to waste policy and strategies is required from the State Government. The City of Kwinana committed to EfW in 2014, in-line with the State's 2012 waste strategy, only for the State's position to unexpectedly change in 2018 with the initial release of the Waste Strategy 2030, whereby EfW was no longer supported. The current review of the waste levy includes a potential levy of EfW, which, if implemented, would see financial disadvantage to those who committed to EfW in-line with the previous State Waste Strategy 2012.
- The EfW contractual commitments entered into by the City of Kwinana, and several other Local Governments, in-line with the State's 2012 Waste Strategy must be considered in any proposed future application of a levy to EfW. Applying a levy to EfW will not change minimum supply commitments of these Local Governments, and will only result in increased costs to communities, who would have no other option but to honour the EfW commitments and pay an unfairly applied levy.
- There are barriers to the success of the State's intended rapid mass introduction
 of the three bin FOGO system across Perth and Peel regions by 2025. Unless
 the State Government invests heavily in resolving the current market challenges
 facing their intended model, mass stockpiling of oversupplied compost material
 will result.
- Multi-criteria assessment supports EfW over the State's intended three bin FOGO system, when combined with continued reliance on fossil fuel energy generation. This will remain the case until such time as the State's energy demand is supplied by renewable energy sources, which is still many years away. The State Government's position on EfW is currently based only on perceived waste outcomes alone, at the exclusion of the wider environmental, economic and social considerations.

City Officers have prepared a detailed submission in response to the consultation paper, that is consistent with previous correspondence to the State Government concerning these matters, and is also consistent with the City's current Waste Management Strategy 2017-21 and draft Waste Plan 2020-24. The City's submission is also supportive of the draft submission released by WALGA in May 2020 (see Attachment B).

OFFICER RECOMMENDATION:

That Council endorse the Submission on the City of Kwinana Review of the Waste Levy Consultation Paper (as per Attachment A) for delivery to the Department of Water and Environmental Regulation.

DISCUSSION:

Critically for the City, the review of the levy consultation paper includes specific questions relating to the potential application of a levy to EfW. If enacted, this would have financial implications for the City, and several other Local Governments, due to pre-existing contractual commitments for minimum supply quantities to EfW.

The State Government's previous waste strategy, "Creating the Right Environment Waste Strategy 2012", specifically supported energy recovery. It was not until the release of the current "Waste Avoidance and Resource Recovery Strategy 2030", in draft form in 2018, that energy recovery was no longer supported by the State Government. The City submitted objections to this aspect of the Waste Strategy 2030 during the consultative phase of its development in 2018, and now submits objections to the potential levying of EfW for the same fundamental reasons.

The City's submission strongly opposes any potential application of a levy to energy recovery. The basis of this objection being the fact that the City acted in accordance with the State Government Waste Strategy 2012 that was in place at the time the City contractually committed to EfW, in 2014. In addition, the City also outlines the environmental benefits of EfW over the State Government's preferred three bin system, when combined with the fossil fuel energy generation that the State will otherwise depend upon. This will remain the case until such time that the State's energy demand can be supplied from renewable energy sources, being many years away, which is not acknowledged by the State Government in its current position on EfW.

The City's submission also outlines the number of challenges, weaknesses and opportunities with the application of the current waste levy. It is the City's recommendation that issues with the current waste levy be addressed as a priority, and that any potential expansion or increase to the levy be deferred until such time as the currently volatile waste market conditions ease.

LEGAL/POLICY IMPLICATIONS:

Waste Avoidance and Resource Recovery Act 2007

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications as a result of this report.

Changes that may occur to the waste levy following the review being undertaken by the State Government may have financial implications on the City's waste management operations. If the levy cost is increased, and/or applied to energy recovery from waste, the City's waste management costs will increase. The scale of this potential implication is unable to be determined at this time.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications as a result of this report.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome/s and objective/s detailed in the Strategic Community Plan and Corporate Business Plan.

| Plan | Outcome | Objective |
|-------------------------|---------------------------|--|
| Corporate Business Plan | 6. Optimise City Services | 6.1 Encourage waste |
| | | minimisation, recovery and recycling as well as ensure |
| | | appropriate disposal and reuse |

COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report.

Waste industry stakeholders, including Local Governments, have been engaged as part of the consultation process currently being undertaken by the State Government.

Elected Members were briefed on the existing levy, the themes of the review being undertaken by the Department, and the proposed key responses to be submitted by the City at the 15 June 2020 Elected Member Briefing Session.

PUBLIC HEALTH IMPLICATIONS

There are no implications on any determinants of health as a result of this report.

Should the waste levy be increased following the State Government's review, illegal dumping activity will increase, as experienced with previous increases to the Levy, and have a negative impact on amenity, and potentially disease.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

| Risk Event | A levy is applied to energy recovery from waste |
|--------------------------|---|
| Risk Theme | Inadequate supplier/contract management |
| Risk Effect/Impact | Financial |
| Risk Assessment | Operational |
| Context | |
| Consequence | Major |
| Likelihood | Possible |
| Rating (before | High |
| treatment) | |
| Risk Treatment in place | Reduce - mitigate risk |
| Response to risk | Submit a response to the waste levy review |
| treatment required/in | consultation paper. Advocate for a levy not to be |
| place | applied to energy recovery from waste, citing entry |
| | into long term contracts in 2014 that were in |
| | accordance with the State Waste Strategy in place |
| | at the time. |
| Rating (after treatment) | High |

COUNCIL DECISION

203

MOVED CR S LEE

SECONDED CR P FEASEY

That Council endorse the Submission on the City of Kwinana Review of the Waste Levy Consultation Paper (as per Attachment A) for delivery to the Department of Water and Environmental Regulation.

CARRIED/ 6/0





Submission on the Review of the Waste Levy 2020

Closing Date: 15 July 2020

Foreword

The City of Kwinana is supportive of improving the effectiveness of the waste levy to improve waste management outcomes in Western Australia, and provides responses to the consultation questions with this general intent.

The City of Kwinana is one of a number of Local Government Authorities who are contractually committed to energy from waste (EfW) for its MSW management, with these contracts entered into when the "Creating the Right Environment Waste Strategy 2012" (Waste Strategy 2012) was current, and supportive of EfW. The City, therefore, has significant interest in any potential changes to the levy, brought about by the subsequently released "Waste Avoidance and Resource Recovery Strategy 2030" (Waste Strategy 2030), which may impact upon EfW and the City's contractual commitments. The City's responses to the consultation questions applicable to this aspect are reflective of the City's fundamental position, that the Kwinana community should not be financially disadvantaged by a conflict in timing between City of Kwinana contractual agreements and changes in State Government strategy.

The City has reviewed the draft response submission prepared by WALGA (May 2020), and is supportive of all aspects of their response. So as to not be overly repetitious, reference is made to the WALGA submission, as appropriate, in the City's responses here within.

Response to Consultation Questions

Chapter 2 – Objective of the waste levy

1. Are there any beneficial outcomes that can be achieved by a levy beyond those identified in the objectives of Waste Strategy 2030?

The City is in agreeance with WALGA, that the waste levy alone does not change how waste is produced and managed. The recent pressures on the recycling industry resulting from China's National Sword Policy is an example of significant challenges currently faced by waste managers that cannot be addressed with a waste levy in isolation. It is clear that major change is required in Australia's domestic waste and recycling industry, and there is opportunity to use multiple mechanisms and incentives to contribute to beneficial outcomes that support the objectives of the Waste Strategy 2030.

The levy can play an important role in contributing to the Waste Strategy 2030 objectives and supporting a circular economy, however it is not effective in isolation. Modification to how the levy is applied and/or introduction of accompanying incentives, legislation and financial schemes could have far greater benefits. This is particularly applicable to the avoidance of waste generation by product manufacturers and the waste manager's ability to then effectively recover these products and retain them in the economy for as long as possible.

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With regard to Municipal Solid Waste (MSW), the current application of the waste levy is a cost imposed on Local Government Authorities, but has little to no influence on avoiding waste production by product manufacturers and importers. Not only are manufacturers not affected by the non-recyclable/difficult to recycle products that they produce, there is also no incentive to manufacture products using recovered recycled materials. This is a major constraint to achieving a circular economy, and one which the current waste levy system has no meaningful influence on resolving.

Waste managers currently pay the waste levy, yet have no control over the production of the waste, other than attempting to influence consumer demand behaviors through education programs. Additional legislation, mandates, expanded product stewardship, product labelling (eg. recycled %), and financial incentives, or other means, is necessary for the manufacture and import of products into Australia/Western Australia. This would have beneficial outcomes for the Waste Strategy 2030 objectives, and support a more rapid transition towards a circular economy.

Another major constraint to achieving a circular economy, which the waste levy could provide beneficial outcomes to, is the lack of an adequate domestic reprocessing market for recovered materials. The recent announcement of the introduction of waste export legislation will benefit this, however the development of this industry would occur significantly quicker with increased strategic use of the funds yielded by the levy. Regardless of the proportion of the levy collected that is allocated back into waste avoidance and recovery, the highest priority for this funding should be strategic waste management activities. The fast tracking of the development of the domestic reprocessing industry in a cost effective and sustainable way should be of the highest priority to the State Government. The sooner this occurs, the sooner waste managers will have viable recovery options available, the sooner the impacts of China's National Sword Policy will ease, and the sooner the targets and objectives of the Waste Strategy may be realised.

Chapter 3 – How the levy can help achieve the objectives of Waste Strategy 2030

1. Are there any other strengths or weaknesses of a waste levy as an instrument for achieving the objectives of Waste Strategy 2030?

The influence that the levy can have on the viability of alternate, more desirable, waste management methods in the waste hierarchy, thus supporting the Waste Strategy 2030, is its strength. There are, however, weaknesses of the levy, in its current form..

Increased recovery through recycling has, until very recently, primarily relied on external foreign markets for the sale of recycled materials for reprocessing. International restrictions and planned Federal Government bans on the export of some materials has exposed the industry's vulnerability to such changes. To date, the waste levy has not fostered the development of local markets to any great degree, in either the charging of the levy or the application of funding. A circular economy and the objectives of the Waste Strategy 2030 are unachievable without a resolution to the ongoing global recycling industry situation. The charge of the levy alone is unlikely to make any meaningful difference without a range of other supportive mechanisms and increased resourcing from the State and/or Federal Government.

For materials where there is no current viable recovery option, regardless of the amount of levy applied, beneficial outcomes may only be achieved from the levy if the funds collected actually contribute to the development of long term solutions for such materials. The critical weakness here with the current levy is the fact that only a fraction of the funds collected are reinvested back into research and development that will aid this issue. In the case of such

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materials in MSW, the levy just becomes an unavoidable cost to the community, who have no other option for the management of such material and limited other product purchase options due to a lack of State and Federal Government control or influence on the production and importation of these materials.

To achieve the Waste Strategy 2030 objectives, there must be a diverse spectrum of efficient, viable waste treatment facilities and recovery options available to Local Governments for the processing of MSW. Emphasis is currently placed on waste managers to ensure that the environment is protected by adopting better practice, however alternatives are not sufficiently provided for by the levy or the Waste Strategy 2030. There does not appear to be adequate large scale strategic activity from the State Government at present to foster the development of alternative waste treatment infrastructure, other than Food Organics and Garden Organics (FOGO) processing. Waste managers require solutions to these industry-wide barriers to a circular economy if the Waste Strategy 2030 targets are to be achieved.

The City supports WALGA's position regarding the comparatively low proportion of levy funds that are allocated to programs compared to other States, and the necessity for strategic waste management activities to be transparently prioritised. In order to achieve the objectives of the Waste Strategy 2030, investment in solutions to currently unviable recovery options, domestic reprocessing technology and infrastructure, and market development for recovered material products must be strategically prioritised and supported with adequate levy funding.

The direct influence that the levy, and any increases to the levy, has on illegal dumping and levy avoidance, combined with inadequate State Government resourcing of compliance, is a notable weakness of the levy system in its current form. The cost of the levy has increased illegal activity, in turn becoming a further financial burden to ratepayers for the collection, lawful disposal and payment of the levy on materials dumped on lands managed by Local Governments. On land that is not managed by Local Governments, including State and Crown land, this illegal dumping goes largely unmanaged and all manner of waste remains in these areas causing negative environmental impacts. Clearly this is not in keeping with the intention of the levy, and contradicts the objectives of the Waste Strategy 2030. This issue requires appropriate resourcing if it is to be addressed, and must be adequately considered in any proposal that seeks to increase the existing levy rate.

The levy can play an important role in improving waste management outcomes in Western Australia. The overriding weakness in its current application, however, is the use of the funds collected. There are significant, ever changing challenges faced by waste managers that would be greatly aided by the effective prioritisation of funding to strategic waste management activities that contribute to viable options that enable waste managers to meet the objectives of the Waste Strategy 2030. Of course, this could be far more effective with a greater proportion of the funds collected being allocated to such activities, as is the case in other States.

Chapter 4 – Rate of the levy

- 1. How has the waste levy benefitted or affected your waste business or operations?
- 2. Can you advise of any recycling and waste diversion opportunities that would become viable if the waste levy was increased or applied in a different way? What rate of levy could be required to make these viable?
- 3. Please provide information on potential impacts which may result from increasing the waste levy.

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4. If you knew when the waste levy was going to be varied, how would it affect your decisions about managing waste or related investments?

As with all metropolitan WA Local Governments, the City of Kwinana has been significantly affected by the waste levy. Not only has the levy impacted City's MSW management costs, but has also increased the cost of managing illegal dumping, with this increase being unfairly borne by ratepayers. The impact of the levy was a key consideration in the City's decision to enter an EfW contract in 2014, in accordance with the State Government's Waste Strategy 2012 in place at the time, which specifically supported energy recovery from waste.

The City engaged into EfW as a beneficial waste disposal solution over landfill, with regard to both cost and environmental outcomes, and this remains the case. Without the waste levy on landfill, EfW would not have been economically viable. The subsequent release of the Waste Strategy 2030 and the State Government's desire to implement the three bin FOGO system across metropolitan Perth and Peel regions does not change the City's contractual commitments of MSW supply to EfW. Any increase to the rate or scope of the levy will only add financial strain to the City's ratepayers, who have no other option to avoid the increased costs.

With regard to the City's capability to improve diversion of waste prior to landfill (or EfW once commissioned), the City supports WALGA's position that without active reinvestment of levy funds back into strategic waste activities, Local Governments are paying ongoing levy costs with limited to no ability to reduce this cost for ratepayers. This is particularly applicable in the current industry situation following the Chinese National Sword Policy, whereby significant cost increases are being experienced, severely limiting the sector's capacity to continue to address landfill by recycling, and neither the levy charge or levy funding appear to be contributing to a solution at the scale or speed at which the industry requires. The levy being increased or applied in a different way will not contribute to such solutions, but would likely have further detrimental impacts on an already financially strained industry.

Needless to say, any increase or expansion to the current levy in the foreseeable future, amidst the attempted recovery from both the Chinese National Sword Policy situation and the global covid pandemic, would be extremely difficult, and in many cases impossible, for Local Governments and their ratepayers to financially manage. It is the City's position that any future change to the rate of the levy should be well founded, based on independently verified evidence based benefits to waste management outcomes, be consulted transparently with industry, and have a minimum five year lead time.

The City would only ever support a change to the rate of the levy if there is a demonstrated benefit to strategic waste management outcomes with a change to the allocation of levy funds collected. The City will not support any change to the levy that acts as a stand-alone blunt economic tool that just seeks to financially discourage the use of landfill. If there is justifiable benefit to prohibiting the use of landfill for particular materials, then this should be legislated, along with legislation that controls particular materials in the supply chain that waste managers are forced to deal with. The transition away from landfill is fundamentally reliant on recovery options actually being available for the materials being managed. It is for this reason that it is so critical that levy funding be more strategically applied to developing these solutions, and why the City would only ever support a change in the levy rate that would clearly bring such benefits.

It must also be noted that any increase to the levy will, as it has in the past, result in an increase to illegal dumping and levy avoidance. This in-turn places even further financial strain on Local Governments, who are not only then managing more illegally dumped material, but are then paying more levy on the lawful disposal of this material. The City of

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Kwinana removed and disposed wastes from 249 illegal dumping incidents at a cost of over \$574,000 in 2018/19, driven in part by the cost of the waste levy. Local Government capacity to pay further additional costs, particularly in the foreseeable future, must be thoroughly considered and addressed in the assessment of perceived benefits to any potential increase to the levy.

If there were to be any supported change to the levy, a minimum five year lead time would enable medium term strategic decision making, and enable business case development in the sector. If combined with improved strategic application of the levy funding, improved private sector confidence, increased research, development and initiation of alternate recovery methods, beneficial outcomes for the whole industry could eventuate far more quickly than would otherwise occur.

The City is of the position that, more so than any change to the rate of the levy, it is change in State Government policy and strategy that is of greater concern to the waste industry. The primary example of this being the farcical current situation of a levy of EfW now being considered under the Waste Strategy 2030 after EfW was specifically supported under the preceding Waste Strategy 2012. The influence of knowing when the rate of the levy is being varied on Local Government decision making concerning managing waste and related investments is inconsequential compared to changes in strategic direction by the State Government, as has been the case with EfW. Industry requires long term commitment to policy as much as it requires adequate lead time for levy rate changes.

Chapter 5 – Setting future levy rates

1. How might the Government best balance the need for responsiveness to emerging knowledge about best practice waste management with the benefits of providing the confidence about future waste levy rates?

Should any future proposed change to the levy be supported by the City, WALGA's position of a minimum five year rolling schedule would be desired. This would enable accurate medium term financial planning and informed decision making, without long term detriment to the introduction of any new best practices that may emerge. In any case, if a highly beneficial viable new practice did emerge, one would expect migration to such practice by industry, regardless of future levy rates. Furthermore, five years from an initial inception of potential new best practice through to being operationally and market ready would be reasonable, if not optimistic, for most technological/infrastructure advancements. As such, a need for greater "responsiveness" with regard to levy rate adjustments inside five years is unlikely to yield much, if any, practical benefit and is therefore considered unnecessary.

The City also reiterates that the levy should not be used in isolation as a stand-alone economic tool in driving industry change. Responsiveness to emerging best practice options can be achieved in ways other than continually increasing the cost of existing methods. The use of regulation, financial incentives, grant schemes, low interest loan programs, best practice guidelines and standards development, education programs and the like are all options that are available to the State Government to be highly responsive and proactive in fostering, developing and supporting emerging best practice.

Chapter 6 – Geographical area of the levy

- 1. Are there opportunities for the recovery of regional waste that would be made more viable by a regional waste levy?
- 2. Where are these opportunities most likely to be viable?

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- 3. What rate of waste levy could be required to make them viable?
- 4. Under specific circumstances, it is possible that an expanded waste levy area could make evasion less financially attractive. How does the cost of transporting waste over long distances compare with the cost of the levy?
- 5. What other advantages or disadvantages could arise from a regional waste levy?

Whilst not directly applicable to the City of Kwinana, WALGA's position is fully supported by the City, in recognition that our regional counterparts would face significant challenges if a levy were to be introduced without due consideration of all impacts.

Chapter 7 – Waste management options to be levied

- 1. Waste Strategy 2030 proposes that by 2020, only residual waste will be used for energy recovery. How will this requirement affect your waste management operations?
- 2. Would a waste levy on energy recovery have a different effect on your operations?
- 3. Are there any other waste management options where applying a levy could help achieve the objective of Waste Strategy 2030?

The City of Kwinana is aligned with WALGA's position that waste received by a licensed premises for the purpose of resource recovery, in any form, should not be levied. If a levy were to be applied to one form of recovery as less desirable than another, then arguably a scaled levy should be applied to all recovery options in the waste hierarchy. This is obviously not desirable and would be detrimental to the objectives of the Waste Strategy 2030, and contradict the intent of a levy being applied in the first place, being to encourage recovery over landfill. The point is that energy recovery should not be levied, just as no other recovery option on the waste hierarchy should be levied.

It must be acknowledged by the Department of Water and Environmental Regulation and the Waste Authority that the City of Kwinana, like several other Local Governments, acted in keeping with the Waste Strategy 2012 that was in place at the time when EfW contracts were entered into. To be abundantly clear, the opening paragraph of the Waste Strategy 2012 vision specifically read "The primary goal of sustainable waste management strategies is to reduce the environmental impact of waste and maximise conservation of natural resources through reduced overall material use and increased materials and energy recovery". In following this State Government vision, and with ever increasing levy costs being imposed, Local Governments assessed waste management options available, and several ultimately entered long term EfW contracts.

The City contractually committed to EfW in 2014 as the most beneficial waste management option for it MSW after conducting a multi-criteria assessment across environmental, economic and social outcomes. This commitment to EfW was some four years prior to the release of the draft Waste Strategy 2030 in 2018, which then changed the goal posts and seeks to have Local Governments transitioning to a three bin FOGO system by 2025. Given the timing between the Waste Strategy 2012 being supportive of EfW, Local Governments entering long term contracts in keeping with this Strategy and then for EfW to no longer being supported in the Waste Strategy 2030, consideration must be given for existing contractual commitments with any proposed levy concerning EfW.

The City is currently preparing its Waste Plan 2020-24 with an intent to maintain its current two bin system and a continued garden organics (GO) collection service. This system is necessary to satisfy the City's minimum supply commitment to EfW over this period. With

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the City's delivery of a two bin and GO collection service, the Waste Strategy 2030 proposal of only "residual" waste being used for energy recovery becomes somewhat complicated with the application of a levy to mixed material containing a portion of what would be considered "non-residual" waste. Given the prior separation at source of recyclables and majority of GO via the collection service, the presumption would be that all but the Food Organics (FO) in the City's general waste stream would be considered "residual". If a levy were to be applied to all mixed material received, as "contaminated" by non-residual FO waste, this would be highly inequitable. Conversely, any levy system that attempted to somewhat equitably apply a levy to this mixed material would likely be complex to administer and challenging to manage compliance.

In any case, if a levy, in any form, where imposed on waste received for energy recovery, it would not change the City's current operations, nor that of at least the next 4 years. It will not stop or reduce the City's EfW commitment, nor reduce landfill, and would, therefore, be fruitless in its intent. The City entered EfW as an innovative opportunity to achieve the State's waste objectives of the time, which focused on reduced landfill to realise benefits of reduced long term costs to the community and reduced environmental impacts compared to traditional fossil fuel energy generation. A levy applied to EfW will only result in increased rates to the Kwinana community, for which they, nor the City of Kwinana, have any control to now change. In addition to being one of the most disadvantaged areas in metropolitan Perth, like others, the Kwinana community is only just commencing its recovery from the covid pandemic, and can ill afford further financial strain that increased levying of their waste would bring.

As a growth area Council, the City of Kwinana will continue to grow in household numbers over the next 20 years, and the City's waste generation will also continue to grow; albeit with the intent to reduce waste per capita. In time, this growth will provide the opportunity for the City to consider its overall waste management options in balancing its minimum EfW supply commitments with other options, such as those proposed in the Waste Strategy 2030. It must be noted, however, that should the City's FO material be diverted from EfW to FOGO in the future, the City has remaining concerns regarding the market readiness for State's intended implementation of the three bin FOGO system. If successfully implemented, this will generate an estimated 250,000 to 300,000 tonnes of compost material per annum in the metropolitan and Peel regions, with no apparent market for anywhere near this quantity in the foreseeable future. Unless this is rapidly addressed, there is great risk of ever increasing stockpiles of this "non-residual" waste material, which, arguably could be more beneficial in energy recovery, rather than utilising fossil fuel energy generation that the State's energy supply otherwise relies upon.

The apparent presumption that Local Governments and the agricultural sector will just begin using the composted FOGO material in-lieu of traditional granular and liquid fertilisers is questionable and, as yet, seemingly unfounded. Practical use of compost material in a municipal setting is essentially limited to soil conditioning of new developments and in redevelopment projects. Use as a general fertiliser for established parks and gardens is just not economically or operationally viable, even if the material is gifted, due to a multitude of factors. As such, consumption of FOGO generated compost, in any meaningful quantity, by Local Governments is highly unlikely, and places a market reliance on the limited residential market, and the agricultural sector to consume very large quantities of this material, which is yet to be demonstrated as viable. The development of the FOGO compost market must become a primary focus for the State Government if the intended outcomes are to be realised. This will require time and a scale of investment in multiple sectors that will be challenging to achieve by 2025.

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The City is not opposed to FOGO composting as a waste recovery option, however, as is the challenge with many aspects of a circular economy, there must be a viable market for the recovered material. The current and foreseeable demand for FOGO compost is grossly inadequate for the supply quantity that will be generated. Any change to the levy that impacts energy recovery from MSW containing FO and/or GO will not change this, but would rather contribute to the issue further with even greater oversupply. The simple fact is, that whilst there is extremely limited FOGO compost market at present, there is an existing market for electrical energy that EfW would bring multiple benefits to over the State's current energy generation infrastructure.

If, and when, there is a sufficiently developed FOGO compost market with demand for such large quantities of material, then there may exist some potential benefit in a change to the levy concerning such material being used for EfW. The City would, however, only ever support any levy concerning EfW where the State Government can provide a business case that clearly demonstrates evidence based benefits to waste management and environmental outcomes. The wider implications of energy generation must be considered in any such business case, which is unlikely to support a levy on EfW until the State's energy demand is primarily supplied from renewable energy sources.

With regard to the application of a levy to any other waste management options, the City is of the position that, in the first instance, the existing levy could be used more effectively in achieving the objectives of the Waste Strategy 2030, rather than introducing new levies to an industry that is already under financial pressure. As outlined elsewhere in this submission, the City believes greater benefit could be realised, if the low proportion of levy funds allocated to programs were increased, and funding of strategic waste management activities prioritised. The City will not support the introduction of any additional levy without clear benefits to strategic waste management outcomes being demonstrated.

Chapter 8 – Other improvements to the waste levy

1. What other changes to the design or implementation of the waste levy could help make it more effective or efficient in achieving the targets of Waste Strategy 2030?

The City is fully supportive of WALGA's position that a clear rationale for the levy is essential for assessing the appropriateness of all policy decisions which relate to the levy, such as how it is charged, the rate applied and where the levy funding is spent.

It is also the position of the City that the levy could be more effective and efficient in achieving the targets of the Waste Strategy if the funding from the levy was increasingly applied to strategic activities that address the challenges faced by waste managers. Increased investment, and effective prioritisation, is required for improved local processing technology and infrastructure, product market creation and development, and industry incentives that improve packaging and product recovery outcomes. Without rapid improvement to recovery options available to waste managers, the targets of the Waste Strategy 2030 and transition to a circular economy will be unattainable.

If the State Government is truly committed to achieving the Waste Strategy 2030 targets, appropriate commitment of investment to see their realisation is necessary. Waste managers are making substantial financial contributions through the levy, a total of \$77.57m in 2018/19, from which seemingly limited benefit is gained towards addressing the challenges faced by the industry. The fraction of this funding that is currently re-invested into meaningful industry wide solutions that would support the objectives of the Waste Strategy 2030 is inadequate. Even one of the key strategies of the Waste Strategy 2030; to implement the three bin FOGO system by 2025, is not adequately funded. Communities

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have paid millions into the levy for the development and funding of waste management solutions, and yet are to incur even further costs to implement such changes.

The waste industry is under extreme and unprecedented financial pressures at present; levy grant funding for key strategic initiatives of the Waste Strategy 2030 require adequate investment of levy funds to enable waste managers to implement such strategies. Without this, the financial impacts of the Chinese National Sword Policy and covid pandemic will prohibit the effective implementation of the Waste Strategy 2030 and its targets and objectives will not be achieved.

It is a contradiction that the levy should, theoretically, aim to make itself obsolete by eliminating landfill of recoverable materials, whilst by design, 75% of the levy collected is funding general operations of the State Government. Whilst this remains the case, there exists an unsustainable contradiction in the State Government's use of the waste levy as an instrument to achieve the objectives of the Waste Strategy 2030. Without substantial justification of the clear and tangible waste management benefits to be realised, any changes to the levy would be considered by industry to be an offset to lost revenue from reduced landfill, as opposed to necessarily being beneficial to the State's waste outcomes. It is essential that the rationale for the levy be made clear and that the application of the levy and use of funds generated be designed to be solely, or at least primarily, focused on improving strategic waste management outcomes.

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DRAFT Submission on the Review of the Waste Levy

May 2020



Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate.

This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Draft Submission has been prepared for Local Government feedback. A consultation session was held on 20 March and feedback from that session has informed this document. Please provide feedback by COB Friday 29 May to Candy Wong, Waste Management Specialist, cwong@walga.asn.au

1. Introduction

The Association appreciates the opportunity to comment on the *Review of the Waste Levy* prepared by the Department of Water and Environmental Regulation (DWER). This Paper seeks to initiate feedback aimed at improving the effectiveness of the waste Levy. Local Government has maintained as strong interest in the Waste Levy, its application, effectiveness and regulation, since the Landfill Levy was in put in place in the late 90's.

WALGA reviewed its Waste Levy Policy Statement in 2018 and through this review reaffirmed the position of Local Government on a number of key issues relating to the Levy. This Submission draws on the *Waste Levy Policy Statement*, the review of the Statement and feedback provided by Local Government through consultation.

This Submission provides feedback on some of the questions asked in the Consultation Paper and comments on key areas of concern for the Sector.

2. Use of the Waste Levy as an Economic Instrument

In commenting on the Waste Levy it is important to identify that the Levy alone does not change how waste is managed. Local Government has previously expressed concern that there had been a reliance on the Levy over and above other waste policy instruments and approaches and the State Government's use of the Levy as a 'blunt' economic instrument, with no consideration of the context in which it operates, which has resulted in the diversion of waste to the cheapest available disposal option, legitimate or otherwise.

With the adoption of the Waste Avoidance and Resource Recovery Strategy and Acton Plan in 2019 and the ongoing work on Waste Reform there is a clear acknowledgement from Government that these a range of measure are necessary for change and that they are commitment to progressing change. However, in commenting on the Levy the Association would again like to identify that for Levy to function as intended, there needs to be:

 A viable market for the material diverted from landfill, otherwise stockpiling or potentially illegal disposal of the material occurs.

- Fit for purpose standards for products made from diverted material to facilitate market acceptance of the products. Without such standards, there is not a clear delineation of when a waste becomes a product.
- Assistance for operators to transition to a new testing regime for waste material to become a
 product. If significant financial outlay is involved in diverting material from landfill, financial
 assistance could support a business case investment.
- Effective regulation of the waste industry, to ensure the Levy is paid on all eligible material.

The Department should not consider the Levy in isolation as a tool to divert material from landfill – all of these issues must be addressed. In industries where there is a history of market failure, there is no certainty that new markets will automatically develop in response to a price signal. Rather, higher costs may be passed to those generating the material.

3. Consultation Questions

Chapter 2 Objective of the waste levy

1. Are there any beneficial outcomes that can be achieved by a levy beyond those identified in the objectives of Waste Strategy 2030?

Waste levies provide an incentive for waste collectors to find more economic methods to dispose of material which can be recovered, however for the Levy to be effective the material has to have a viable recovery option and in the wake of China's National Sword Policy and falling commodity prices, the resource recovery sector has less capacity and funds to invest in these options. Therefore it has never been more important for the Levy to be effectively invested in local resource recovery options.

Chapter 3 How the levy can help achieve the objectives of Waste Strategy 2030

1. Are there any other strengths or weaknesses of a waste levy as an instrument for achieving the objectives of Waste Strategy 2030?

The Association strongly supports the objectives of the Waste Strategy 2030 that seek to address waste avoidance, resource recovery and environmental protection. While it is stated that the expenditure of the Levy does not form part of the scope of this consultation, a discussion about the proportion of Levy funds allocated to the Waste Avoidance and Resource Recovery Account (WARR Account) should be warranted in a review of the Levy. As such, it is pertinent to highlight that the overriding weakness of using the Levy as an instrument for achieving the desired outcomes remains its existing application to strategic waste management activities.

The Waste Authority Annual Report 2017/2018 indicated that approximately \$19 million – equivalent to 25 per cent of the total Levy collected – was allocated to the WARR Account. Of that amount, \$7.4 million was spent on services provided by DWER leaving \$11.6 million – equivalent to a 15% of the total Levy collected – allocated for programs. This is in stark contrast to figures presented in a 2018 report – Managing the Municipal and Industrial Landfill Levy – prepared by the Victorian Auditor-General's Office which yields a comparison whereby almost 60% of the total levy collected in Victoria from 2009/2010 to 2016/2017 was allocated to the State's Sustainability Fund.

In a recent review of the WALGA Policy Statement, Local Government reiterated that Levy funds must be hypothecated to strategic waste management activities as opposed to core State Government functions. There is overwhelming agreement that the State Government must demonstrate its commitment to addressing the issues that have arisen from China's National Sword Program, and assist Local Government with implementing effective, and sustainable, long-term solutions to waste management. Effective application of the Levy will be pivotal in achieving the objective to recover more value and resources from waste as State Government investment will boost confidence in the sector and drive the development of local markets for the resources collected.

The basis of Local Government support for the Levy continues to be subject to the provision (on an ongoing basis) of robust evidence, made available to the public, demonstrating the Levy is achieving

its broad objectives, and on a number of conditions regarding the Levy's operation and the application of Levy funds.

The Paper states that the application of the Waste Levy is not part of the scope of this paper because the "effectiveness of waste levy expenditure is dependent on the effectiveness of actions, each of which needs to be evaluated on its own performance" and the "Delivery of Waste Strategy 2030's annual action plan is to be supported by an evaluation framework, which will guide the evaluation of programs and actions funded by the levy". However, in the Action Plan the development of an evaluation framework to assess the effectiveness of waste levy expenditure does not appear to be mentioned. The Association was involved in some preliminary discussions regarding this evaluation framework and is keen to understand the timeframe for the development and application of the framework.

Chapter 4 Rate of the levy

- 1. How has the waste levy benefitted or affected your waste business or operations?
- 2. Can you advise of any recycling and waste diversion opportunities that would become viable if the waste levy was increased or applied in a different way? What rate of levy could be required to make these viable?
- 3. Please provide information on potential impacts which may result from increasing the waste levy.
- 4. If you knew when the waste levy was going to be varied, how would it affect your decisions about managing waste or related investments?

The increase in the Levy has a direct impact on the Local Governments sectors management of waste as it is a cost which is passed onto residents via the annual Rate process. If the Levy is not actively reinvested back into waste avoidance and resource recovery, Local Government is paying a cost but has limited ability to reduce that cost.

Consistent with its views regarding the appropriate rationale for the Waste Levy, Local Government considers that the rate of the Waste Levy should be set by reference to a well defined set of criteria. Including:

- Capacity to achieve stated objectives: The State Government may indicate that it will use the Levy to achieve objectives other than the generation of funds for strategic activities. If so, then the State Government must give valid reasons to show how a change in the Levy will support those objectives before Local Government would support the use of Levy funds. For instance, State Government may consider that at a higher rate, the Levy will discourage landfilling of some waste types, but this belief should be supported with something more than anecdotal evidence and also demonstrate that there would not be other financial imposts on Local Government such as an increase in illegal dumping that would need to be cleaned up
- Capacity to pay the Levy: The State Government must take into account the capacity of Local Governments and their communities to pay the Levy. This capacity to pay the levy is affected by social, economic and political constraints.
- Capacity to Plan: To ensure Local Government can plan and budget for changes to the Levy, and
 has a firm basis for business cases to change service provision, at least a 5 year rolling schedule
 for the Levy is required.

Chapter 5 Setting future levy rates

1. How might the Government best balance the need for responsiveness to emerging knowledge about best practice waste management with the benefits of providing the confidence about future waste levy rates?

The WALGA Policy Statement on the Waste Levy indicates support for, at least, five year rolling schedule for the Levy. This is to ensure Local Government can plan and budget for changes to the Levy, and has a firm basis from which to develop business cases on changes to services. This certainty was considered particularly important when investing in, and committing to, long term waste management solutions.

Chapter 6 Geographical area of the levy

- 1. Are there opportunities for the recovery of regional waste that would be made more viable by a regional waste levy?
- 2. Where are these opportunities most likely to be viable?
- 3. What rate of waste levy could be required to make them viable?
- 4. Under specific circumstances, it is possible that an expanded waste levy area could make evasion less financially attractive. How does the cost of transporting waste over long distances compare with the cost of the levy?
- 5. What other advantages or disadvantages could arise from a regional waste levy?

There is no support for the Levy to be applied to licensed landfills outside the metropolitan area Application of the Levy to licensed landfills outside the metropolitan area would prove to be a significant logistical and financial impost on Local Government landfill operators and potentially have severe environmental impacts. Levy application in these areas could increase the frequency of illegal dumping and provide a disincentive to the regionalisation of landfills.

When reviewing the WALGA Policy Statement, feedback indicated the majority of non-metropolitan Local Governments did not consider it feasible, or appropriate, to implement the Levy in areas with a limited rate base, economic growth and resources to manage such a change. There was also opposition to the application of the Levy in areas where there are limited viable alternatives to manage waste, other than landfill. The drivers that led to the implementation of the Levy in the metropolitan area were not considered to be present in non-metropolitan areas. These drivers included the generation of large amounts of waste in a concentrated area, limited suitable landfill space in close proximity to the source of waste and limited viable alternatives to manage recovered material. Non-metropolitan Local Governments were clear that the introduction of a Levy would have significant logistical and financial implications.

Non-metropolitan Local Governments were extremely concerned that the introduction of a Levy, and consequently increased disposal costs, would increase the amount of waste that was inappropriately disposed of by residents and commercial businesses(e.g. illegally dumped, illegally landfilled, or disposed of at an inappropriate waste management facility). Self-haulage of waste is common practice in areas not serviced by kerbside collection services. Non-metropolitan Local Governments that have implemented measures to control the use of their landfills, such as fees, restricting opening hours, and staffing the facility, reported that inappropriate disposal had occurred, along with the diversion of material to other facilities that charge little, or no fees. The application of the Levy to the regional centres listed in the current State Waste Strategy was also considered problematic, with these issues likely to occur in surrounding areas. There was agreement that there were not resources available in Local Government to address these issues. The way in which the Levy has been implemented and enforced in the metropolitan area, has not provided non-metropolitan Local Governments with confidence that the State Government has the capacity or resources to address these concerns.

If the State Government were to impose the Levy on the non-metropolitan area, there was agreement across the sector that there must be a prior commitment to support Local Government through the provision of:

- 100% hypothecation of the Levy to strategic waste management activities
- Significant committed funding to address regional priorities, including investment in infrastructure and programs that support the development of local markets, reprocessing and subsidised transport of recovered materials to market
- Thresholds in applying the Levy, based on population, and/or annual tonnage received, at a differential rate to that of the metropolitan area
- Sufficient notice of any change in the application of the Levy
- A mechanism for Local Government to recover all of the costs related to the collection of the Levy, including upgrades to infrastructure, administration and responding to inappropriately disposed material.

Chapter 7 Waste management options to be levied

- 1. Waste Strategy 2030 proposes that by 2020, only residual waste will be used for energy recovery. How will this requirement affect your waste management operations?
- 2. Would a waste levy on energy recovery have a different effect on your operations?
- 3. Are there any other waste management options where applying a levy could help achieve the objective of Waste Strategy 2030?

There is no support for the Levy to be applied to waste received at licensed premises whose primary purpose is resource recovery. Local Government strongly opposes the application of the Levy to waste delivered to licensed premises which have, as a primary purpose, resource recovery (such as materials recovery facilities (MRFs), green waste processing facilities and alternative waste treatment (AWTs) facilities). Local Government will consider the appropriateness of the Levy being applied to waste delivered to other types of licensed premises (for example mine dumps) on a case-by-case basis.

There will be an impact on those Local Governments which have signed up to waste to energy facilities before the Strategy was released in February 2019. A levy on waste to energy is likely to impact the viability of these facilities.

Chapter 8 Other improvements to the waste levy

1. What other changes to the design or implementation of the waste levy could help make it more effective or efficient in achieving the targets of Waste Strategy2030?

A clear rationale for the Levy is essential for assessing the appropriateness of all policy decisions which relate to the Levy, such as how it is charged, the rate applied and where the money is spent. In addition, any funds raised for, and allocated to, strategic waste management activities must be expended in a timely manner.

Local Governments commented on the level of funding made available by the State Government, questioning the effectiveness of the current approach. There was agreement that funding programs designed to encourage the adoption of certain waste management systems, must provide Local Government and Regional Councils with sufficient incentive and funds to do so. While funding proposals must be carefully considered by the State Government, applications should be straight forward to complete, delivering viable waste management solutions that facilitate social, environmental and economic outcomes.

A fixed proportion of monies collected from Local Government should be made available to Local Government on a first call basis in the form of project money to support the objectives of the State Waste Strategy. Currently, under Section 4(2d) of the Waste Avoidance and Resource Recovery Levy Act 2007, Local Government can claim "reimbursement of administrative costs incurred by the person, organisation or licensee collecting the levy".

The scope of activities and projects able to be funded through the Waste Levy must recognize differences in priority. Local Government expects State Government funding programs that support waste management activities to:

- 1. Provide adequate funding and support for Regional Councils, non-metropolitan and metropolitan Local Governments
- 2. Reflects the targets and priorities within the State Waste Strategy
- 3. Fully funds and acknowledges the life cycle costs of infrastructure and services
- 4. Facilitate the development and implementation of Product Stewardship Schemes.

Without effective regulation, the Levy's ability to raise funds and act as an economic instrument to reduce waste to landfill is negated. The Levy must be supported by a comprehensive regulatory regime for both licenced premises and other sites.



We're working for Western Australia.



Review of the waste levy

Consultation paper

Department of Water and Environmental Regulation February 2020

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For more information about this report, contact: wastelevyreview.query@dwer.wa.gov.au

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Consultation on the waste levy

This paper seeks community input on improving the waste levy.

The issues discussed in this paper will be of primary interest to generators and managers of waste, investors and others involved in developing improved approaches to managing waste in Western Australia. This consultation provides an opportunity to raise issues, concerns and opportunities, and provide information on potential impacts on businesses, the community and government.

Following the public consultation period, the Department of Water and Environmental Regulation (the department) will analyse submissions, undertake further investigation and modelling, and make recommendations to the Minister for Environment.

By making a submission you are consenting to the submission being treated as a public document. Your name will be published; however, your contact address will be withheld for privacy. If you do not consent to your submission being treated as a public document, you should either mark it as confidential, or specifically identify the parts that you consider confidential, and include an explanation.

Submissions will be summarised in a report following the close of the consultation period.

The department may request that a non-confidential summary of the material is also given. It is important to note that, even if your submission is treated as confidential by the department, it may still be disclosed in accordance with the requirements of the *Freedom of Information Act 1992*, or any other applicable written law.

The department reserves the right before publishing a submission to delete any content that could be regarded as racially vilifying, derogatory or defamatory to an individual or an organisation.

How to make a submission

The consultation period will be 12 weeks. Written submissions must be received by 5pm (WST) on Friday, May 15, 2020. No late submissions will be considered.

Written submissions can be lodged (preferred) at consult.dwer.wa.gov.au/waste-policy/review-of-the-waste-levy/

Hard copies can be mailed to:

Waste Levy Review

Department of Water and Environmental Regulation

Locked Bag 10, Joondalup DC, WA 6919

Feedback from this consultation process will inform the development of final legislative approaches to support waste reform in Western Australia.

For further information please email wastelevyreview.query@dwer.wa.gov.au

1 Introduction

The Government of Western Australian is committed to reducing waste disposed to landfill, and increasing resource recovery across the state. Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 (Waste Strategy 2030) outlines approaches to avoid the generation of waste, increase material recovery, and protect the environment from the impacts of waste.

The waste levy applies to the landfill disposal of waste generated in the Perth metropolitan area. It increases the cost of landfill disposal, which provides a financial incentive to decrease the quantity of landfill disposal.

Waste Strategy 2030 includes a headline strategy to review the scope and application of the waste levy to ensure it meets the objectives of the strategy. These are shown in figure 1.

Figure 1: Objectives and targets of Waste Strategy 2030

| Avoid | Recover | Protect |
|--|---|---|
| Western Australians generate less waste. | Western Australians recover more value and resources from waste. | Western Australians protect the environment by managing waste responsibly. |
| 2025 – 10% reduction in waste generation per capita 2030 – 20% reduction in waste generation per capita | 2025 – Increase material recovery to 70% 2030 – Increase material recovery to 75% From 2020 – Recover energy only from residual waste | 2030 – No more than 15% of waste generated in Perth and Peel regions is landfilled 2030 – All waste is managed and/or disposed to better practice facilities |

The strategy also requires the establishment of a schedule of future waste levy rates with a minimum five-year horizon.

Purpose and scope of this paper

The Government of Western Australian is reviewing the scope and application of the waste levy to ensure it meets the objectives of Waste Strategy 2030.

This paper seeks the input of key waste stakeholders as part of the evidence to inform the review. The review will also consider economic analysis and other investigations.

As outlined in Waste Strategy 2030, the review adopts the objectives of the waste strategy as objectives for the review of the waste levy.

Reforms in progress that relate to the waste levy

The Government is progressing a number of other waste reforms that relate to the waste levy and support the objectives of Waste Strategy 2030. These reforms have not been discussed in this paper as they will be (or have been) subject to separate consultation processes:

 Amendments to the Waste Avoidance and Resource Recovery Regulations 2008 (WARR Regulations) to require recordkeeping and reporting of waste and recycling data from local governments, waste recyclers and licensees of

- major regional landfills. This has been enacted from 1 July 2019 and the first of the required reports will be submitted by 1 October 2020.
- Review of the uncontaminated fill thresholds in Table 6 of the *Landfill Waste Classification and Waste Definitions 1996 (as amended 2019)*
- Proposed amendments to the WARR Levy Regulations to require the use of weighbridges for Category 63, 64 and 65 landfill premises to calculate leviable waste.
- Waste not, want not valuing waste as a resource Consultation to inform development of a legislative framework to provide for beneficial re-use of waste-derived materials.
- Legislative proposals for waste reform (Closing the loop Waste reforms for a circular economy in Western Australia)

Further information on these five initiatives, and links to previous consultation, is available at www.dwer.wa.gov.au. The feedback received from these consultation processes will form part of the inputs used to provide advice to the Minister.

Waste levy avoidance and evasion

The consultation processes listed above include significant proposed measures to address the potential for waste levy avoidance and evasion.

This paper discusses waste levy avoidance and evasion where it is relevant to the scope and application of issues in the paper. It does not include a comprehensive discussion of waste levy avoidance and evasion.

Waste levy expenditure

Currently, \$20.75 million per annum (25 per cent) of the forecast waste levy revenue is allocated to waste-related actions administered by the Waste Authority or undertaken by the department. This funding supports actions under Waste Strategy 2030.

This review does not discuss in detail the role of the levy in funding programs and actions. The effectiveness of waste levy expenditure is dependent on the effectiveness of actions, each of which needs to be evaluated on its own performance.

Identifying measures that are successful in supporting Waste Strategy 2030 demonstrates the benefit of levy expenditure on waste management.

Delivery of Waste Strategy 2030's annual <u>action plan</u> is to be supported by an evaluation framework, which will guide the evaluation of programs and actions funded by the levy. This framework will evaluate the degree to which actions are meeting the intent of Waste Strategy 2030 and identify potential improvements. The framework will ensure an approach to evaluation that is consistent, transparent, consultative and evidence based.

2 Objective of the waste levy

The objectives of Waste Strategy 2030 and therefore of the review of the waste levy are broader than past objectives of a levy.

Original objective

A levy on metropolitan waste was first introduced by the *Environmental Protection* (*Landfill*) *Levy Act 1998*. Its stated purpose was to provide funding for waste management and recycling programs¹ ².

Waste Avoidance Resource and Resource Recovery Act

The levy was incorporated into the *Waste Avoidance Resource and Resource Recovery Act 2007* (WARR Act) and the Waste *Avoidance Resource and Resource Recovery Levy Act 2007*. While the scope and application of the levy remained largely unchanged, the levy's purpose was stated as³:

- influencing waste management practices, including reducing waste to landfill, by increasing the price of landfill disposal
- raising funds to support waste-related programs, which have the effect of reducing waste to landfill.

Waste Strategy 2030

The strategy contains the following objectives:

- Avoid: Western Australians generate less waste.
- Recover: Western Australians recover more value and resources from waste.
- Protect: Western Australians protect the environment by managing waste responsibly.

As specified by the strategy, the current waste levy review seeks to ensure that the scope and application of the waste levy supports these three objectives, which are broader than the objectives under the Act.

Chapter 2 - Consultation questions

1. Are there any beneficial outcomes that can be achieved by a levy beyond those identified in the objectives of Waste Strategy 2030?

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¹ Environmental Protection (Landfill) Levy bill, second reading, Legislative Assembly 22 October 1997 "to provide necessary funding for waste management and recycling programs". The speech also refers to Advisory Council on Waste Management (1997)²

² Western Australian Advisory Council on Waste Management (1997). *The Introduction of an urban landfill disposal levy in Western Australia*, "The justification for the levy is to raise funds to be spent on waste reduction, recycling and waste management projects and programs, public education and information approved by the Minister for the Environment on advice from the Advisory Council on Waste Management."

³ Waste Avoidance and Resource Recovery Levy bill 2007, second reading, legislative assembly, 17 October 2007.

3 How the levy can help achieve the objectives of Waste Strategy 2030

Waste Strategy 2030 contains a number of measures to achieve its objectives, and is not prescriptive about the role of the waste levy in achieving any particular objective. The waste levy's price signal may be relied upon to achieve an objective where it is effective and efficient relative to the use of other programs and instruments. The waste levy also provides funds to support other such measures.

The price signal provided by the waste levy makes landfill disposal more expensive and less attractive to waste generators and managers. Their options to reduce the financial cost of landfill disposal include reduced generation of waste and increased recovery and recycling.

If landfill disposal becomes less attractive than alternatives, then waste generators or managers may choose these options instead of landfill. A waste levy may lead to increased waste recovery or reduced generation. The factors that affect whether this will occur include:

- the disposal costs of some waste generators (such as households) are not tied to the volumes of waste that they generate, and households that generate and dispose of less waste do not receive reduced local government rates
- the viability and cost of beneficial alternatives to landfill can depend on the strength of markets for recoverable materials and the cost of establishing processing infrastructure.

Where there are potential uses for recyclable material that are near to being commercially viable, increasing the cost of landfill disposal may make these uses financially competitive with landfill.

Waste levy avoidance and evasion can also result in reduced actual or reported quantities of waste disposed to landfill. Key reforms to address avoidance and evasion are outlined in section 1.

The effectiveness of a waste levy to divert waste from landfill depends on the realistic options that waste generators and managers have to respond to the increased costs of landfill, and the decisions and investments they make. A waste levy may improve recovery of materials if potential recovery opportunities exist. However, like all financial incentives, it is only effective and efficient if beneficial alternatives are within its reach.

Chapter 3 - Consultation questions

The department would appreciate your feedback on the following question:

1. Are there any other strengths or weaknesses of a waste levy as an instrument for achieving the objectives of Waste Strategy 2030?

If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

4 Rate of the levy

Levy rates since 2012

In developing the 2012 waste strategy, the Waste Authority advised the government that an increase to the rate of the waste levy was required in order to meet the strategy's waste diversion targets.

A five-year schedule of increases was instituted from 1 January 2015. This took the waste levy from its 2014 levels of \$28 and \$8 per tonne of putrescible waste and inert waste respectively, to \$70 per tonne for both putrescible waste and inert waste from 1 July 2018 onwards. This is shown in Table 1.

| Period | Putrescible rate/tonne | Approx. inert rate/tonne | Inert rate/m ³ |
|----------------------------------|------------------------|--------------------------|---------------------------|
| 31 December 2014 | \$28 | \$8 | \$12 |
| 1 January 2015 – 30 June 2016 | \$55 | \$40 | \$60 |
| 1 July 2016 – 30 June 2017 | \$60 | \$50 | \$75 |
| 1 July 2017 – 30 June 2018 | \$65 | \$60 | \$90 |
| I July 2018 onwards | \$70 | \$70 | \$105 |

Table 1 - Waste levy rates

Effect of the levy rate

A key element of the waste levy's objectives involves the diversion of waste from landfill towards material recovery by making recycling more financially attractive relative to landfilling.

However, if financially attractive opportunities for recycling do not emerge, then increasing the waste levy may have unintended consequences, such as creating an incentive for the inappropriate disposal of waste in order to avoid paying a levy.

Since the increases in the waste levy, there has been a significant decline in waste from the Perth metropolitan area being disposed to landfill, particularly construction and demolition waste. However, there is currently a lack of data on waste volumes and flows to indicate that re-use and recycling rates for waste are improving. Changes to the WARR Regulations commencing from 1 July 2019 will improve information and reporting about waste flows.

The disposal of waste to landfill misses opportunities for the better use of materials. However, waste that is contained within a well-managed landfill has substantially less environmental impact than waste that is disposed inappropriately in the environment.

A prudent approach to future waste levy increases may involve understanding what beneficial recovery and re-use opportunities exist, and confirming that the waste levy is functioning as intended and is not causing unacceptable negative consequences. When these circumstances are in place, then increasing the waste levy may be an effective way to improve recovery rates.

Chapter 4 - Consultation questions

- 1. How has the waste levy benefitted or affected your waste business or operations?
- 2. Can you advise of any recycling and waste diversion opportunities that would become viable if the waste levy was increased or applied in a different way? What rate of levy could be required to make these viable?
- 3. Please provide information on potential impacts which may result from increasing the waste levy.
- 4. If you knew when the waste levy was going to be varied, how would it affect your decisions about managing waste or related investments?

If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

5 Setting future levy rates

As new information, circumstances and technology emerge in future, there may be good reasons to adjust the waste levy, to ensure it is based on up-to-date knowledge about the efficient management of waste.

On the other hand, if waste levy rates are set several years in advance, this can give waste managers time to plan and implement strategies to better manage waste in response to changes to the waste levy. Where commercial investments are required to better manage waste, advance notice of rates can provide greater confidence to support such investment.

Like most other charges imposed by government, the waste levy is set by the Government in regulations (Waste Avoidance and Resource Recovery Levy Regulations 2008). Publication of an advance schedule of future waste levy rates and its incorporation into regulation shows the intention of government at the time the rates are set.

However, if a schedule of waste levy rates is set for a longer time into the future, it is more likely that new information will arise, market circumstances will change or waste management innovations will emerge before the schedule reaches its final year. While it may be legally possible for a government to adjust a schedule of rates before the end of its term, this could also defeat the purpose of establishing an advance schedule of rates.

Chapter 5 - Consultation questions

The department would appreciate your feedback on the following question:

1. How might the Government best balance the need for responsiveness to emerging knowledge about best practice waste management with the benefits of providing the confidence about future waste levy rates?

If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

6 Geographical area of the levy

Currently, the waste levy applies to Perth metropolitan waste received for disposal to landfill, or waste received for disposal at landfills in the Perth metropolitan region.

New South Wales, South Australia and Victoria apply levies on landfill in at least some regional areas (Table 6.1).

| | Metropolitan | Regional | Exempted regions |
|--------------------|--------------|----------|--------------------------|
| New South Wales | 144 | 83 | Remote/less populated |
| Queensland | 75 | 75 | Remote/less populated |
| South Australia | 110 | 55 | |
| Victoria | 664 | 33 | |

Table 6.1 Waste levy rates as at December 2019 (dollars per tonne)

The review will consider the merits of expanding the geographical area of the levy, to apply it to waste generated in locations outside Perth.

Increasing recovery outside the metropolitan area

About 25 per cent of Western Australians live outside the Perth metropolitan area. Encouraging resource recovery in regional areas of Western Australia may help achieve Waste Strategy 2030 targets, which include targets for the Peel region and major regional centres⁵.

| Year | Perth and Peel | Major regional centres |
|------|----------------|------------------------|
| 2020 | 65% | 50% |
| 2025 | 67% | 55% |
| 2030 | 70% | 60% |

Table 6.2: Targets for municipal solid waste material recovery (Waste Strategy 2030)

In regional areas, the greater distances involved in transporting waste and the lower population density can make some recycling opportunities less viable than in more

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 $^{^{4}}$ Waste from three larger regional cities (Ballarat, Bendigo and Geelong) is levied at the metropolitan rate

⁵ Waste Strategy 2030 lists Albany, Busselton, Bunbury, Greater Geraldton and Kalgoorlie-Boulder as major regional centres

populated areas closer to infrastructure. At the time that the levy was first established in 1998, there were considered to be few recycling opportunities in Western Australia outside the metropolitan area.

Yet despite the views that were formed 20 years ago, about 40 per cent of total non-metropolitan waste is recycled, so clearly at least some opportunities exist to recover waste generated outside the metropolitan area.

A levy on waste generated in areas outside Perth may provide a financial incentive that may result in increased recovery. For example, waste that is produced in larger volumes, that is more costly to transport and that can be recovered with simple processing infrastructure (such as some construction and demolition or organic wastes) may be best recovered locally.

The Perth and Peel region together comprise about 80 per cent of the state's population. About 90 per cent of the population lives within major population centres including Perth, Peel and major regional centres.

The Peel region has roughly doubled in population since the original landfill levy was introduced in 1998, and is projected to have a population of 179,000 by 2023. Its proximity to Perth may give it viable access to similar recycling opportunities.

About 10 per cent of Western Australia's population lives outside the major population centres. This is a large part of the area of Western Australia. When compared with major population centres, in these areas it is relatively less likely that a waste levy will make a significant and efficient contribution towards the targets of Waste Strategy 2030. However, it is still possible that there are additional recycling options in these areas within reach of a levy.

Compliance costs outside the metropolitan area

Landfills that are likely to receive leviable waste are a focus of additional reporting and inspection requirements to ensure that the levy is paid as intended. Currently, these landfills are typically in or around Perth, broadly within an area that comprises less than 5 per cent of the state. In comparison, Perth has about three-quarters of the state's population.

Greater distances would need to be travelled in regional areas to monitor and enforce the application of a levy. In these areas, the expenditure required to ensure compliance would be proportionately greater, particularly in less-populated areas that generate less waste.

To ensure that the levy remains efficient, any decision to expand the waste levy will consider the effect on compliance costs, particularly if the levy were to be extended to areas where landfill volumes and recycling opportunities are relatively small and additional levy revenue is likely to be modest.

Rate outside the metropolitan area

If the waste levy were to apply in areas outside Perth, it could be set at the same rate as Perth, or at a lower rate.

A lower rate would provide less funds to support improved waste management across Western Australia, and would provide a lesser financial incentive to avoid landfill. However, a greater financial incentive to avoid landfill would only lead to increased recycling if suitable potential recycling opportunities exist.

The Peel region is adjacent to Perth and may have similar recycling opportunities to Perth. In New South Wales and Victoria, waste levies for some locations within or near the greater metropolitan regions are set at the metropolitan rate.

In New South Wales, South Australia and Victoria, the rate for major regional centres is about half the metropolitan rate, while in New South Wales and Queensland, remote areas are exempt from the levy.

Reducing avoidance opportunities

There are industry and government concerns that some operators may be avoiding payment of the levy by transporting waste to licensed waste facilities outside the metropolitan region, and failing to disclose (i.e. misclassifying) its origins.

The limited available data does not indicate that misclassification of the geographic origin of waste is currently a major contributor to waste levy avoidance and evasion.

An expanded levy area may reduce potential opportunities for regional misclassification. However, it would only be likely to lead to a material reduction to waste avoidance and evasion under a specific set of circumstances, in which:

- misclassification was a significant contributor to avoidance and evasion
- an expansion of the waste levy area made the locations where waste could be misclassified sufficient distance from where most waste was generated, so as to make transportation unprofitable
- effective measures were in place to address all significant alternative avoidance and evasion opportunities (including measures to ensure accurate reporting of waste flows)
- measures in place that otherwise effectively addressed waste levy avoidance and evasion were still ineffective in addressing geographic misclassification.

It would also expand the compliance area for the waste levy to include locations with low population density from which relatively small quantities of waste originate and from where there would be minimal levy revenue produced. It is therefore unclear that expanding the waste levy area would be an effective and efficient method to reduce overall levy avoidance and evasion.

Other considerations

A number of smaller regional local governments dispose of waste at the licensed landfills of other local governments, where the larger scale allows the landfill to be well managed and regulated. This can be an environmentally beneficial alternative to disposal at a local unregulated facility. It is possible that a waste levy in regional areas may discourage this practice, particularly if it is designed without appropriate safeguards or exemptions.

Chapter 6 - Consultation questions

The department would appreciate your feedback on the following questions:

- 1. Are there opportunities for the recovery of regional waste that would be made more viable by a regional waste levy?
- 2. Where are these opportunities most likely to be viable?
- 3. What rate of waste levy could be required to make them viable?
- 4. Under specific circumstances, it is possible that an expanded waste levy area could make evasion less financially attractive. How does the cost of transporting waste over long distances compare with the cost of the levy?
- 5. What other advantages or disadvantages could arise from a regional waste levy? If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

7 Waste management options to be levied

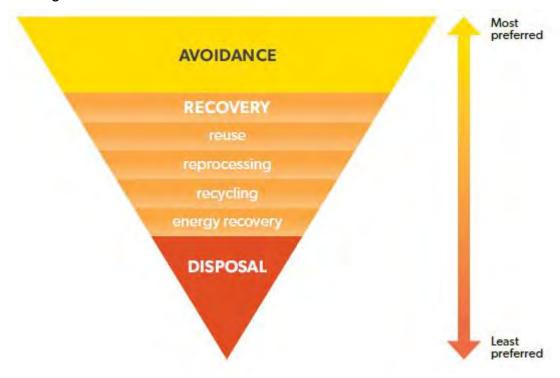
Under current regulations for the waste levy, it is applied only to waste received at landfill premises. At the time that the WARR Levy Act was introduced, in 2007, the wording of legislation was broadened to refer to a levy on waste disposal, rather than on landfill. However, at the time there was no intention to apply the levy to anything other than waste in landfill⁶.

The Act was passed more than 12 years ago, so it is appropriate for a review of the scope and application of the waste levy to reconsider whether other waste management methods should be levied.

Energy recovery

An example of a waste management method that could be levied is energy recovery. The South Australian Environment Protection Authority has <u>stated</u> that where feedstock has undergone limited processing the primary function of energy recovery is waste disposal. In these cases, South Australia's waste levy may apply.

The waste hierarchy is set out in the *Waste Avoidance and Resource Recovery Act* 2007 and Waste Strategy 2030. It ranks waste management options in order of their general environmental desirability. The waste hierarchy is used alongside other tools (including economic, social and environmental assessment tools) to inform decision-making.



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⁶ Waste Avoidance And Resource Recovery Levy bill 2007, second reading, legislative assembly, 17 October 2007.

Resource recovery options recover value from materials, thereby avoiding environmental impacts of extracting and processing raw materials.

Waste Strategy 2030 gives preference to material recovery over energy recovery and includes a target to recover energy only from residual waste. Energy recovery is preferable to landfill disposal but should only be applied to residual waste once better-practice source-separation approaches have been exhausted. This approach is consistent with work undertaken over several years on the role of waste to energy in Western Australia:

- In 2013 the Environmental Protection Authority released Report 1468 which identified that waste-to-energy processes must target genuine residual waste.
- The Waste Authority released a position statement on waste to energy in 2013, confirming that waste to energy should only be used for genuine residual waste that would otherwise go to landfill. This waste-to-energy position statement will be reviewed and updated in 2020.
- In 2018, the Environmental Protection Authority released Report 1623
 following an inquiry into the conditions applying to existing waste-to-energy
 proposals for residual waste. It recommended a new condition that defines
 residual waste and requires continuous improvement towards accepting only
 residual waste, as waste generators improve source separation practices.
- Waste Strategy 2030 includes a target to recover energy only from residual waste by 2020.

<u>New South Wales</u>, <u>Queensland</u>, <u>Victoria</u> and <u>South Australia</u> have policies or are developing policies that avoid the use of potentially recoverable materials being used to generate energy.

On 5 March 2019, the Minister for the Environment issued two Ministerial statements under section 46 of the *Environmental Protection Act 1986* amending the implementation conditions for two waste-to-energy facilities in accordance with the EPA's recommendations. The Government of Western Australian anticipates that implementation of the EPA's recommended conditions will ensure that only residual waste⁷ as defined by Waste Strategy 2030 is used to generate energy in Western Australia. If this is the case, a waste levy on residual waste accepted for energy recovery would not have a beneficial effect on improving recovery of materials.

However, if a risk remains that recoverable materials (i.e. non-residual waste) may be used for energy recovery, then the Government may consider additional measures for reducing or prohibiting this.

Waste that remains after the application of a better practice source separation process and recycling system, consistent with the waste hierarchy as described in section 5 of the Waste Avoidance and Resource Recovery Act 2007 (WARR Act). Where better practice guidance is not available, an entity's material recovery performance will need to meet or exceed the relevant stream target (depending on its source - MSW, C&I or C&D) for the remaining non-recovered materials to be considered residual waste under this waste strategy.

Other waste management options

A waste levy may be a suitable policy instrument to encourage reduction in the level of an activity. However, a levy on an activity implies that some level of activity is considered essential, desirable or tolerable.

Stockpiling of waste

There are currently no thresholds or triggers for making the levy payable in circumstances where waste is stored or stockpiled at waste facilities on a long-term basis or indefinitely. As part of <u>separate consultation</u> on legislative proposals for waste reform, the Government is examining options for applying a levy to some waste held in stockpiles.

Chapter 7 - Consultation

The department would appreciate your feedback on the following questions:

- 1. Waste Strategy 2030 proposes that by 2020, only residual waste will be used for energy recovery. How will this requirement affect your waste management operations?
- 2. Would a waste levy on energy recovery have a different effect on your operations?
- 3. Are there any other waste management options where applying a levy could help achieve the objective of Waste Strategy 2030?

If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

8 Other improvements to the waste levy

The waste levy is a key policy instrument in helping to achieve the targets of Waste Strategy 2030.

The effectiveness and efficiency of the waste levy in achieving the targets of Waste Strategy 2030 depend on the opportunities and limitations that exist in the waste industry for better management.

Utilising the specialist knowledge of waste managers is essential for government to ensure that the waste levy is as effectively and efficiently designed and implemented as possible.

Chapter 8 - Consultation

The department would appreciate your feedback on the following question:

1. What other changes to the design or implementation of the waste levy could help make it more effective or efficient in achieving the targets of Waste Strategy 2030?

If you can provide evidence or more detailed information to support your views, this may help make a stronger case for appropriate action.

9 How to make a submission

Written submissions

Submissions can be lodged (preferred) at consult.dwer.wa.gov.au/waste-policy/review-of-the-waste-levy

Hard copies can be mailed to:

Waste Levy Review
Department of Water and Environmental Regulation
Locked Bag 10, Joondalup DC, WA 6919
Closing date: **May 15, 2020, 5pm (WST)**

For further information:

Telephone: (08) 6364 7000

Email: wastelevyreview.query@dwer.wa.gov.au

Department of Water and Environmental Regulation

8 Davidson Terrace JOONDALUP WA 6027

Locked Bag 10 Joondalup DC JOONDALUP WA 6919

Phone: +61 8 6364 7000 Fax: +61 8 6364 7001

17 Reports – Built Infrastructure

17.1 Development Application for Outbuilding: Lot 400 (35) Robinson Road, Wandi

DECLARATION OF INTEREST:

There were no declarations of interest declared.

SUMMARY:

A development application has been received for the construction of an outbuilding on Lot 400 (35) Robinson Road Wandi (refer to Attachment A to D). The site currently has a Single house and associated outbuildings on the property. The applicant intends to demolish two (2) existing outbuildings and install an outbuilding (shed) in the northern section of the building envelope. The outbuilding is proposed to be 20m x 15m (300m²).

This application is presented to Council, due to the delegation requirements of Local Planning Policy 'Development Within Special Rural Zones' (the LPP). The policy requires that a development application proposing a total aggregate area of outbuildings exceeding $300m^2$ is to be determined by Council. In addition to the new outbuilding (of $300m^2$), an existing garage (of $40m^2$) is intended to be retained on site.

The applicant has provided signed copies of plans from surrounding landowners and letters to confirm the neighbours raise no objection to the development.

OFFICER RECOMMENDATION:

That Council approves the Outbuilding on Lot 400 (35) Robinson Road Wandi, under Local Planning Scheme No. 2, subject to the following conditions:

CONDITIONS

- (1) The premises being kept in a neat/tidy condition at all times by the owner/occupier to the satisfaction of the City of Kwinana.
- (2) Prior to completion of the approved outbuilding, the 'existing shed' and 'garden shed', as shown on attachment D, are to be demolished and materials removed from the lot.
- (3) The applicant shall implement dust control measures for the duration of site works to the satisfaction of the City of Kwinana.
- (4) Stormwater drainage from roofed and paved areas to be contained and disposed of on site.
- (5) The shed shall be used for storage only and shall not be used for habitable or commercial purposes without prior approval from the City of Kwinana.
- (6) This approval relates only to the development as indicated on Plans 1 3 as shown on Attachment B. It does not relate to any other development on this lot and must substantially commence within two (2) years from the date of this decision letter.

ADVICE NOTES

(1) Should the applicant be aggrieved by the decision or any condition imposed, then a right of review should be lodged with the State Administrative Tribunal within 28 days of the date of this decision.

- (2) The applicant is advised that this is not a building permit the City of Kwinana issues to enable construction to commence. A building permit is a separate requirement and construction cannot be commenced until a building permit is obtained.
- (3) The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the *Environmental Protection Act* 1986 and Regulations, *Health Act* 1911 and Regulations, and the National Construction Code.
- (4) The Minister for Planning has issued a formal notice extending the deadline for substantial commencement by an additional two (2) years for all applications approved during the current State of Emergency. In effect, this means that the timeframe for substantial commencement is now four (4) years from the date of this determination.

DISCUSSION:

Land Status

Metropolitan Region Scheme: City of Kwinana Town Planning Scheme No. 2: Rural - Water Protection Special Rural (SR2)

The Proposal

An application has been received for an outbuilding at Lot 400 (No. 35) Robinson Road Wandi (the site). The site of 2.01ha currently has a Single house and various existing outbuildings on the property within an established building envelope. No Building Envelope alterations are proposed. The proposed outbuilding will be 20m x 15m (300m²) with a maximum wall height of 5m and roof height of 6m (refer to Attachments A to D for plans of the proposal).

Two existing outbuildings, a 130m² outbuilding (formerly stables) and a 12m² garden shed, are to be demolished. Another outbuilding, a 40m² shed, is intended to be retained. Including the proposed and existing outbuildings, approval to the application would result in 340m² total aggregate area of outbuildings on the site.

Development Requirements

The 'Development within Special Rural Zones' LPP is relevant to this application. Assessment was undertaken with regard to the following provisions of the LPP, based on the characteristics of the site and the proposed outbuilding:

| LPP Provision | Proposal | Assessment |
|---------------------------------------|--|---|
| Aggregate Shed Area 250m ² | 300m ² proposed shed + 40m ² existing garage = 340m ² total | Discretion required. Further comment below |
| Wall height 5m | 5m | Complies |

| Roof Height 6m | 6m | Complies |
|--|--|--|
| Sheds larger than 300m ² require planning approval, to be considered by council. | Application submitted & Council determination sought | Complies. |
| The use, location and appearance of the building will not either detract from the area or adversely impact on neighbouring properties. | Use: storage Location: Within building envelope. Appearance: Sheet metal finish + roller doors | Considered acceptable. Further comment below. |
| Materials to be non- reflective neutral materials | Sheet metal finish + roller doors | Considered acceptable. Further comment below. |
| Located where screening vegetation can be utilised. | Screening provided by vegetation and existing buildings. | Complies |
| Neighbour support | Signed plans and letters confirm "no objection" by neighbours. | Complies |
| Written justification | Provided. | Complies |

In reviewing the proposed development against the LPP and Clause 67 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes)*Regulations 2015, City Officers support the application for the following reasons:

- The proposed wall height 5m and roof height 6m are consistent with the LPP requirements.
- The proposed outbuilding will be located within the building envelope on the lot, set back further than 10m from the lot boundary. The building envelope is located towards the front of the subject lot and development on the neighbouring lot occurs towards the rear. Separation distance and intervening vegetation will result in minimal visual impact on the neighbouring property. The proposed shed is also intended to be constructed in place of an existing stables, to be removed. The location of the proposed shed is considered acceptable.
- The proposed outbuilding is intended to be constructed from sheet metal. It will be substantially screened from view from the road behind existing structures and vegetation. The finish and materials are therefore considered acceptable.

 The applicant provided the following justification regarding purpose of the outbuilding:

"The new 300m² shed will be utilized to store our classic car collection along with car trailer, caravan, boat, kids motorcycles and quad bikes, tractor, lawnmower, bikes, trailers, tools and workshop etc, some of which we are storing elsewhere at a cost as we currently have no secure shed on the property." The landowner advised that they currently rent off-site storage space for vehicles and materials while awaiting approval and construction of a secure shed. The use of the shed for domestic storage, vehicles, equipment and goods is considered appropriate for the site.

• The applicant provided letters from neighboring landowners to demonstrate awareness of the proposed outbuilding, and confirm that "no objections" were raised. It is considered that the development will not detract from the area or adversely impact on neighbouring properties.

City Officers are satisfied that the application can be supported and discretion applied against the policies applicable to the development proposal.

LEGAL/POLICY IMPLICATIONS:

For the purpose of Councillors considering a financial or impartiality interest only, the applicants / landowners are Corey Field and Brooke Field.

The following strategic and policy based documents were considered in assessing the application:

Legislation

Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015

Schemes

Metropolitan Region Scheme City of Kwinana Local Planning Scheme No. 2

On 8 April 2020 the Minister for Planning issued a Notice of Exemption for some elements of Development Approvals. One of these was adding an additional two (2) years to the time allocated for substantial commencement of the application. An advice note has been added to inform the applicant.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications as a result of this report.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications as a result of this report. No clearing of vegetation is proposed outside the building envelope. One tree is intended to be cleared within the building envelope.

STRATEGIC/SOCIAL IMPLICATIONS:

This recommendation will support the achievement of the following outcome and objective detailed in the Strategic Community Plan.

| Plan | Outcome | Objective |
|--------------------------|---------------------|---|
| Strategic Community Plan | A well planned City | 4.4 Create diverse places and spaces |
| | | where people can enjoy a variety of |
| | | lifestyles with high levels of amenity. |

COMMUNITY ENGAGEMENT:

While City Officers would have otherwise sought comment from adjoining owners for this proposal given a variation request to the LPP, the applicant forwarded signed copies of plans and letters to confirm that the owners of surrounding lots consent to the application. As such, City Officers did not separately consult with the surrounding owners.

PUBLIC HEALTH IMPLICATIONS:

There are no implications on any determinants of health as a result of this report.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

| Risk Event | Appeal of Council's decision on the proposed |
|---------------------------|---|
| D: 1 T | Outbuilding. |
| Risk Theme | Failure to fulfil statutory regulations or compliance |
| | requirements |
| | Providing inaccurate advice/ information. |
| Risk Effect/Impact | Reputation |
| | Compliance |
| | Environment |
| Risk Assessment Context | Strategic |
| Consequence | Minor |
| Likelihood | Possible |
| Rating (before treatment) | Low |

| Risk Treatment in place | Reduce - mitigate risk |
|--|---|
| Response to risk treatment required/in place | Work instructions in place and checklists used when assessing the application. Consideration of the application within the statutory timeframes. Compliance of the proposal with LPS2 and other relevant planning legislation. Liaising with the applicant throughout the application process. |
| Rating (after treatment) | Low |

COUNCIL DECISION

204

MOVED CR P FEASEY

SECONDED CR M ROWSE

That Council approves the Outbuilding on Lot 400 (35) Robinson Road Wandi, under Local Planning Scheme No. 2, subject to the following conditions:

CONDITIONS

- (1) The premises being kept in a neat/tidy condition at all times by the owner/occupier to the satisfaction of the City of Kwinana.
- (2) Prior to completion of the approved outbuilding, the 'existing shed' and 'garden shed', as shown on attachment D, are to be demolished and materials removed from the lot.
- (3) The applicant shall implement dust control measures for the duration of site works to the satisfaction of the City of Kwinana.
- (4) Stormwater drainage from roofed and paved areas to be contained and disposed of on site.
- (5) The shed shall be used for storage only and shall not be used for habitable or commercial purposes without prior approval from the City of Kwinana.
- (6) This approval relates only to the development as indicated on Plans 1 3 as shown on Attachment B. It does not relate to any other development on this lot and must substantially commence within two (2) years from the date of this decision letter.

ADVICE NOTES

- (1) Should the applicant be aggrieved by the decision or any condition imposed, then a right of review should be lodged with the State Administrative Tribunal within 28 days of the date of this decision.
- (2) The applicant is advised that this is not a building permit the City of Kwinana issues to enable construction to commence. A building permit is a separate requirement and construction cannot be commenced until a building permit is obtained.

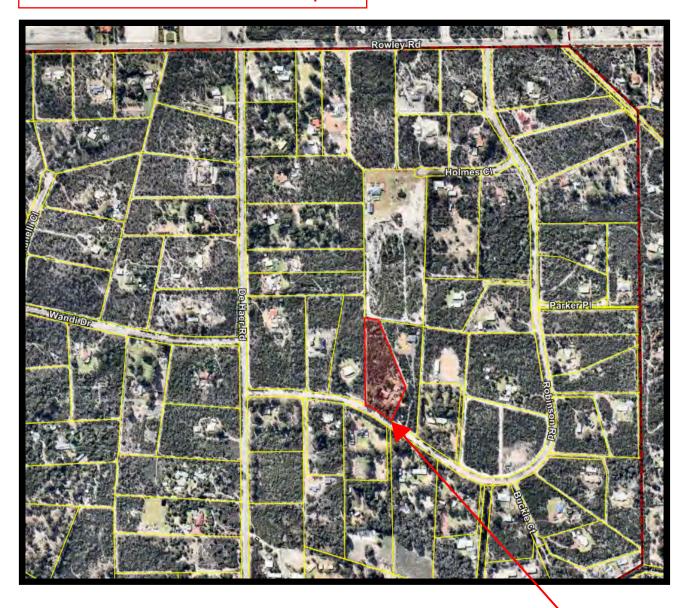
COUNCIL DECISION (continued)

- (3) The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the *Environmental Protection Act 1986* and Regulations, *Health Act 1911* and Regulations, and the National Construction Code.
- (4) The Minister for Planning has issued a formal notice extending the deadline for substantial commencement by an additional two (2) years for all applications approved during the current State of Emergency. In effect, this means that the timeframe for substantial commencement is now four (4) years from the date of this determination.

CARRIED 6/0

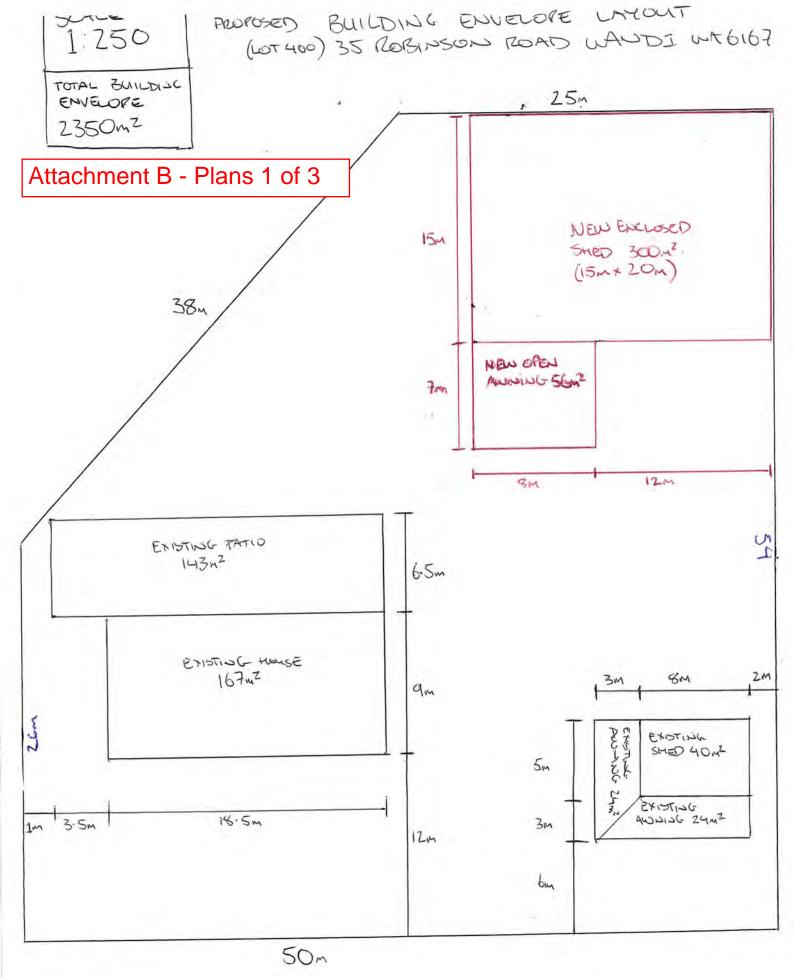
CR Wendy Cooper entered the Chambers at 5.39pm

Attachment A - Context Map

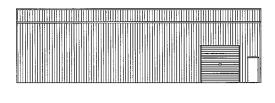




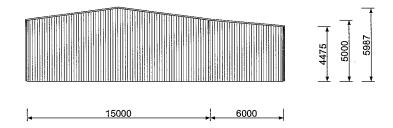
Subject Lot



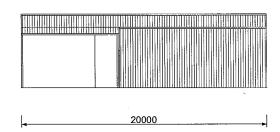
Attachment B - Plans 2 of 3

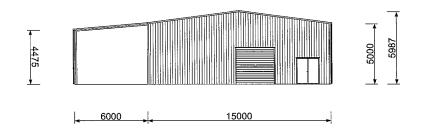


20000



Back Left





Front

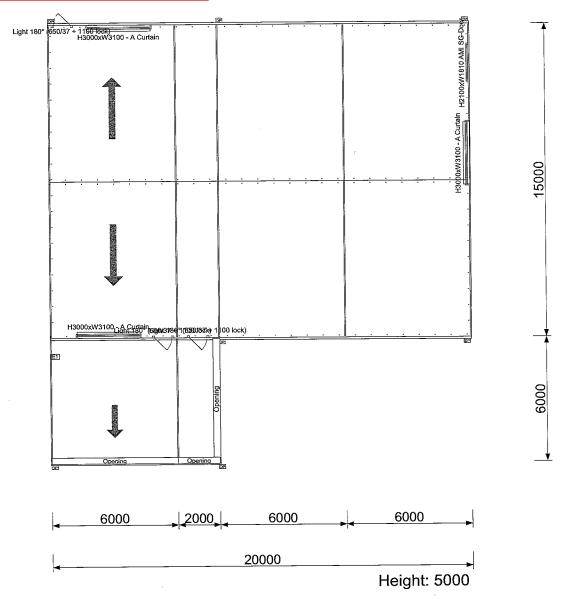
Company: Action Sheds Australia pty ltd Address: 55 Erceg Road, Yangebup, WA, PC: 6164 Phone: 6559 1970

Email: wayne@actionsheds.com.au

Endurance SHEDS & STRUCTURES

| Right | | | |
|---------------|---------------------|--------------------------------|------|
| CLIENT NAME: | Allfield RMS | ELEVATIONS | |
| SITE ADDRESS: | 35 Robinson Road | QUOTENO: ASHWB41168 SCALE: NTS | REV. |
| | Wandi, WA, PC: 6167 | DATE: PAGES: 01 of 01 | |

Attachment B - Plans 3 of 3



OPTION ITEMS LIST:

1 x Front Awning

- 5000h - 5 deg - 6000w - Opened

1 x Window

- 1 x H2100xW1810 AMI SG-Door

3 x PA Doors

- 3 x Light 180° (650/37 + 1100 lock)

3 x Roller Doors

- 3 x H3000xW3100 - A Curtain

2 x Open Bays in Awning

1 x Open End in Awning

(E1) 1 x Eng - Certificate (WA) - Enduro

Company: Action Sheds Australia pty ltd Address: 55 Erceg Road

Email: wayne@actionsheds.com.au

Phone: 6559 1970

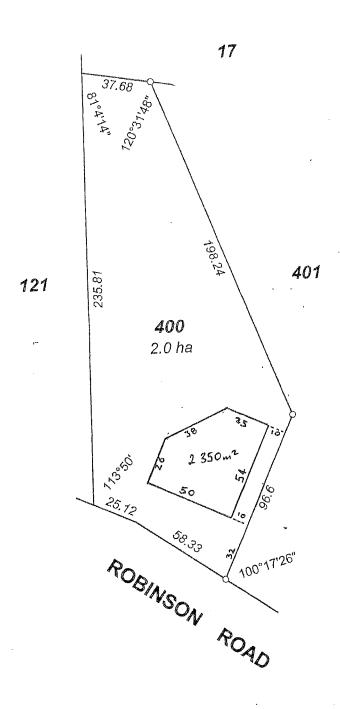
Endurance SHEDS & STRUCTURES

| CLIENT NAME: | Allfield RMS | TITLE: | PLAN | VIEW | |
|---------------|---------------------|-----------|------------|-----------------|------|
| SITE ADDRESS: | 35 Robinson Road | QUOTE No: | SHWB41168 | | REV. |
| | Wandi, WA, PC: 6167 | DATE: | 04/05/2020 | PAGES: 01 of 01 | A |

Attachment C - Building Envelope

BUILDING ENVELOPE

Lot 400 Robinson Road Wandi







Scale 1:2000

Attachment D - Annotated Aerial Photograph



17.2 Joint Development Assessment Panel Applications - General Industry-Storage Tank, Private Utility (Pipelines) and Associated Infrastructure – Lots 12 and 506 Kwinana Beach Road, Kwinana Beach

DECLARATION OF INTEREST:

Mayor Carol Adams declared an impartiality interest in item 17.2, Joint Development Assessment Panel Applications - General Industry- Storage Tank, Private Utility (Pipelines) and Associated Infrastructure – Lots 12 And 506 Kwinana Beach Road, Kwinana Beach, due to the applicant, Coogee Chemicals is a member of the Kwinana Industries Council (KIC), who are her husband's employer. KIC as the administrative body have also noted support for the application.

SUMMARY:

The City has received two Development Assessment Panel (DAP) applications from Coogee Chemicals Pty Ltd for the construction of storage tanks, Private Utility (Pipeline) and associated infrastructure at Lots 12 (DAP/ 20/01787) and 506 (DAP/20/01786) Kwinana Beach Road, Kwinana Beach. The applications have been assessed and generally meet the relevant requirements of the City's Local Planning Scheme No. 2 (LPS2).

The proposal at Lot 12 Kwinana Beach Road (known as the Coogee West Tank terminal) entails the construction of an additional tank for the storage of Urea Ammonium Nitrate (UAN). A tank to store caustic soda is also proposed at Lot 506 Kwinana Beach Road (known as the Coogee North Tank terminal). Both products will be transported from the Kwinana Bulk Jetty via a shared pipeline to the proposed tanks in the subject properties.

As the estimated development cost of each of the applications is in excess of \$10 million, the City of Kwinana (the City) does not have delegation to determine the applications and the applications are therefore required to be referred to the Metro Outer Joint Development Assessment Panel (JDAP) for determination (formerly known as the Metro South West JDAP). At the time of writing this report, a JDAP meeting had not been scheduled but is expected to be held in August 2020. City Officers have prepared the attached Responsible Authority Reports (RARs) in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011* and are attached for Council's consideration and adoption.

OFFICER RECOMMENDATION:

That Council resolve to support the Responsible Authority Reports (attached to this report) to the Metro Outer Joint Development Assessment Panel for;

- 1. Proposed General Industry Storage Tank, Private Utility (Pipeline) and Associated Infrastructure (Attachment A) on Lots 2, 3, 110, and 506 Kwinana Beach Road, Kwinana Beach (DAP/20/01786); and
- 2. Proposed General Industry Storage Tank, Private Utility (Pipeline) and Associated Infrastructure (Attachment B) on Lots 2, 3, 12, and 110 Kwinana Beach Road, Kwinana Beach (DAP/ 20/01787).

DISCUSSION:

Coogee Chemicals Pty Ltd owns and operates properties within the Kwinana Industrial Area (KIA) for bulk chemicals and hydrocarbon terminals as well as various chemical manufacturing plants. The current proposals are for additions to the existing tank farms at the Coogee North Tank terminal (Lot 506 Kwinana Beach Road) and Coogee West Tank terminal (Lot 12 Kwinana Beach Road).

The proposed tanks will be used to store caustic soda and UAN at the respective properties, with a shared pipeline proposed from the Kwinana Bulk Jetty connecting to the Coogee West Tank terminal and then to the Coogee North Tank terminal.

A summary of the two proposals is as follows;

Lot 506 Kwinana Beach Road (DAP Reference: DAP/20/01786)

The proposal includes the following works;

- Construction of a 32 metre (m) diameter x 24.5m high storage tank to be used for the storage of caustic soda. The tank will have a capacity of 29,000 tonnes.
- Construction of the foundation only for a future second storage tank. Further planning approvals will be required for the construction of the second storage tank.
- Construction of a concrete bund wall and floor area for the two storage tanks.
- Construction of a below ground shared pipeline from the Kwinana Bulk Jetty
 through Lot 497 Port Road, Kwinana Beach. Lot 497 is zoned Port Installations
 under the MRS and the proposed pipeline is considered as Port works hence
 approval is not required under the MRS, however, separate approval is required
 from Fremantle Ports.
- Construction of an above ground shared pipeline within the Development WA services corridor (Lot 110 Kwinana Beach Road), which will connect into Lot 12 Kwinana Beach Road (the subject of the development application DAP/ 20/01787).
- The pipeline will continue above ground on the existing elevated pipe bridge before going underground through Lots 2 and 3 Kwinana Beach Road, then underneath Kwinana Beach Road and into Lot 506 Kwinana Beach Road.

Lot 12 Kwinana Beach Road (DAP Reference: DAP/ 20/01787)

The proposal includes the following works;

- Construction of a 32m diameter x 24.5m high storage tank to be used for the storage of UAN. The tank will have a capacity of 29,000 tonnes.
- Construction of the foundation only for a future second storage tank. Further planning approvals will be required for the construction of the second storage tank.
- Construction of a concrete bund wall and floor area for the two storage tanks.
- Expansion to the existing loading gantry.
- Associated equipment including two wash water tanks.
- Construction of a shared pipeline from the Kwinana Bulk Jetty into the subject site. The shared pipeline is controlled by a 3-way valve at the tee intersection of the wharf and within the subject site (Lot 12) to allow caustic to be transferred all the way from the Kwinana Bulk Jetty to caustic storage in the Coogee North Tank terminal at Lot 506 Kwinana Beach Road (subject of development application DAP/20/01786) or UAN to only go to the storage tank at Lot 12.

Lot 12 Kwinana Beach Road is zoned General Industry under LPS2 and Special Industrial under the Metropolitan Region Scheme (MRS). Lot 506 Kwinana Beach Road is zoned General Industry under LPS2 and Industrial under the MRS.

An assessment has been undertaken against the requirements of LPS2 and relevant Local Planning Policies. The proposals generally comply with all relevant requirements set out in LPS2. Furthermore, the proposals have been considered against the following Local Planning Policies:

- Local Planning Policy 5 Development Contribution Towards Public Art (LPP 5)
- Local Planning Policy 8 Designing Out Crime (LPP 8)
- Local Planning Policy 11 Site Requirements and Standards for Development within Industrial Zones (LPP 11).

The development is considered to meet the objectives of LPP8 and LPP11. Regarding LPP5, the proponent is seeking a dispensation from the art contribution as the proposed works are not considered to be major development works. City Officers have reviewed this request and note that the intent of LPP5 is not to seek contributions towards public art for upgrades and refurbishments in the General Industry Zone where small upgrades or changes to existing processing plants may cost many millions of dollars, with little external impact on the site. In the context of the existing developments, the proposed additions are not considered to be a major extension to the existing facilities, therefore it is considered that the art contribution does not apply for either application. A detailed assessment of the application against LPS2 and the policies is provided in detail within the respective attached RARs.

As part of the process, the application was also referred to various external agencies and government departments. The responses that have been received by the City are further discussed in the respective RARs and advice notes included in the recommendations.

Considering the estimated development cost of each of the proposed developments exceed \$10 million, the applications are required to be referred to the JDAP for determination. The applications are scheduled to be considered by the JDAP at a meeting in August 2020. The City is required to submit the RARs to the DAP Secretariat on, or before, 28 July 2020.

The applications have been referred to Council as City Officers do not have delegation to prepare the RARs under the DAP Regulations. Council should note that if it wishes to modify or make an alternative recommendation to that contained within the RARs, this will be in the form of an alternate recommendation which will be included within the RARs.

LEGAL/POLICY IMPLICATIONS:

For the purpose of Councillors considering a financial or impartiality interest only, the proponent/owners are Coogee Chemicals Pty Ltd and Western Australian Land Authority (Development WA).

Legislation

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Planning and Development (Development Assessment Panels) Regulations 2015
- Environmental Protection Act 1986 and relevant Regulations
- Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992
- Health (Miscellaneous Provisions) Act 1911 and Regulations

State Government Planning Policies

State Planning Policy 4.1 – State Industrial Buffer Policy

Local Planning Scheme

City of Kwinana, Local Planning Scheme No. 2

Local Planning Policies

- Local Planning Policy 5 Development Contribution Towards Public Art
- Local Planning Policy 8 Designing Out Crime
- Local Planning Policy 11 Site Requirements and Standards for Development within Industrial Zones.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial or budget implications as a result of this application.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this application

ENVIRONMENTAL IMPLICATIONS:

The Department of Water and Environmental Regulation (DWER) regulates emissions and discharges from the construction and operation of prescribed premises through a works approval and licensing process, under Part V of the *Environmental Protection Act 1986* (EP Act). The existing facilities at the Coogee North and Coogee West Tank terminals operate under existing licences and works approvals from DWER. DWER confirmed that the proposed additions do not trigger section 53 of the EP Act, which relates to changes to emissions or discharges from the prescribed premises due to new works at the premises and hence a licence amendment or works approval for the proposed works is not required.

STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Strategic Community Plan.

| Plan | Outcome | Objective | |
|--------------------------|--------------------------|---------------------------|--|
| Strategic Community Plan | A thriving local economy | 2.5 Stimulate economic | |
| | | development and encourage | |
| | | diversification. | |

COMMUNITY ENGAGEMENT:

The proposed General Industry – Storage Tank is a "P" (Permitted) use under LPS2 and does not require advertising. The proposed Private Utility (pipeline) is an "AA" (Discretionary) use under LPS2, and may require advertising. The pipelines are proposed through several properties including Lot 497 Port Road, which is owned by Fremantle Ports and does not form part of this application. The other properties, being Lot 110 Kwinana Beach Road and Lots 2 and 3 Kwinana Beach Road are owned by DevelopmentWA and Coogee Chemicals (or its subsidiary) which are all party to this application. In this respect, the application was not advertised to the owners of these properties.

PUBLIC HEALTH IMPLICATIONS:

The development at the Coogee North Tank terminal (Lot 506) will require a Dangerous Goods Site Licence and a Dangerous Goods Pipeline Registration to be obtained from the Department of Mines, Industry Regulation and Safety, which will address public health and risk matters.

RISK IMPLICATIONS:

The risk implications in relation to this proposal are as follows:

| Risk Event | Appeal of the JDAP's decision or conditions of |
|--|---|
| Risk Theme | approval imposed. Failure to fulfil statutory regulations or compliance requirements |
| Risk Effect/Impact | Providing inaccurate advice/ information. Reputation Compliance |
| Risk Assessment Context | Strategic |
| Consequence | Minor |
| Likelihood | Possible |
| Rating (before treatment) | Medium |
| Risk Treatment in place | Reduce - mitigate risk |
| Response to risk treatment required/in place | Work instructions in place and checklists used when assessing the application. The recommendation on the application is justified on the basis of compliance with the Local Planning Scheme, and the discretion afforded to the JDAP to vary these documents. Liaising with the applicant throughout the application process. |
| Rating (after treatment) | Low |

COUNCIL DECISION

205

MOVED CR M KEARNEY

SECONDED CR P FEASEY

That Council resolve to support the Responsible Authority Reports (attached to this report) to the Metro Outer Joint Development Assessment Panel for;

- 1. Proposed General Industry Storage Tank, Private Utility (Pipeline) and Associated Infrastructure (Attachment A) on Lots 2, 3, 110, and 506 Kwinana Beach Road, Kwinana Beach (DAP/20/01786); and
- 2. Proposed General Industry Storage Tank, Private Utility (Pipeline) and Associated Infrastructure (Attachment B) on Lots 2, 3, 12, and 110 Kwinana Beach Road, Kwinana Beach (DAP/ 20/01787).

CARRIED 7/0



Form 1 – Responsible Authority Report

(Regulation 12)

| Property Location: | Lots 2, 3, 110 and 506 Kwinana Beach | | |
|----------------------------|--|--|--|
| reporty Locations | Road, Kwinana Beach | | |
| Development Description: | General Industry - Construction of a Storage | | |
| | Tank, Associated Private Utility (Pipeline) | | |
| | and associated infrastructure | | |
| DAP Name: | Metro Outer JDAP | | |
| Applicant: | John Reid (Coogee Chemicals) | | |
| Owner: | Lots 2 & 506 Kwinana Beach Road – | | |
| | Coogee Chemicals Pty Ltd | | |
| | Lot 3 Kwinana Beach Road – Terminals | | |
| | West Pty Ltd (a subsidiary of Coogee | | |
| | Chemicals Pty Ltd) | | |
| | Lot 110 Kwinana Beach Road – Western | | |
| | Australian Land Authority - DevelopmentWA | | |
| Value of Development: | \$10,500,000 | | |
| LG Reference: | DA9599 | | |
| Responsible Authority: | City of Kwinana | | |
| Authorising Officer: | Felicitas Dhliwayo | | |
| | Senior Statutory Planning Officer | | |
| DAP File No: | DAP/20/01786 | | |
| Report Due Date: | 28 July 2020 | | |
| Application Received Date: | 12 May 2020 | | |
| Application Process Days: | 90 Days | | |
| Attachment(s): | 1: Aerial Photograph | | |
| | 2: Site Location Plan | | |
| | 3: Pipeline Site Location Plan | | |
| | 4: General Arrangement Plan 5: Elevation Plan | | |
| | = | | |
| | 6: Landscaping Area Plan & Street View Plan 7: Response from Department of Water and | | |
| | Environmental Regulation | | |
| | 8: Response from Main Roads WA | | |
| | 9: Response from Department of Mines, | | |
| | Industry Regulation and Safety | | |
| | 10: Response from Westport | | |
| | 11: Response from DevelopmentWA | | |
| | 12: Council Minutes | | |
| | 554.161 11111465 | | |
| | | | |

Officer Recommendation:

That the Metro Outer JDAP resolves to:

Approve DAP Application reference DAP/20/01786 and accompanying plans

- Site Location Plan 0446 TTN 014 Rev B;
- Pipeline Site Location Plan 0447-CWTT-DL-008-2 Rev A;
- General Arrangement Plan 0446-TTN-DL-013 Rev E;

- Elevation Plan 0446-TTN-DL-012 Rev E; and
- Landscaping Area Plan 0446-NTT-DL-015 Rev A

in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Kwinana Local Planning Scheme No. 2, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

Conditions

- 1. This decision constitutes planning approval only and is valid for a period of two (2) years from the date of approval. If the subject development is not substantially commenced within the two (2) year period, the approval shall lapse and be of no further effect.
- 2. The premises being kept in a neat/tidy condition at all times by the owner/occupier to the satisfaction of the City of Kwinana.
- 3. Dust control measures shall be implemented for the duration of the site and construction works to the satisfaction of the City of Kwinana.
- 4. The existing landscaping shall be maintained to a high standard at all times to the satisfaction of the City of Kwinana.
- 5. Stormwater drainage from roofed and paved areas being disposed of on-site or as may otherwise be approved under Environmental Protection Authority (EPA) Licence conditions or approved Stormwater Management Plan to the satisfaction of the City of Kwinana.
- 6. Areas within the bund are to be constructed with an impervious hardstand that is graded to capture and direct any spillages away from the storage tanks to a containment area for treatment or disposal to the satisfaction of the City of Kwinana.
- 7. The bunded area shall be connected to a separate drainage system to the satisfaction of the City of Kwinana.

Advice Notes

- 1. The proponent is advised that all future development (including the future second storage tank) must be submitted to and approved by the City of Kwinana prior to the commencement of works or alteration of land use.
- 2. Should the proponent be aggrieved by the decision or any condition imposed, then an application for review may be lodged with the State Administrative Tribunal within 28 days of notification of the decision and right of review.
- 3. The Minister for Planning has issued a formal notice extending the deadline for substantial commencement by an additional two (2) years for all applications approved during the current State of Emergency. In effect, this means that the timeframe for substantial commencement is now four (4) years from the date of this determination.

- 4. The proponent should ensure that the proposed development complies with all other relevant legislation, including but not limited to the;
 - a. Environmental Protection Act 1986;
 - b. Health Act and Regulations;
 - c. Environmental Protection (Noise) Regulations 1997;
 - d. Environmental Protection (Unauthorised Discharges) Regulations 2004:
 - e. Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992;
 - f. Dangerous Goods Safety Act 2004 and Regulations;
 - g. Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007;
 - h. Contaminated Sites Act 2003; and
 - i. National Construction Code.
- 5. The proponent is advised that this approval is not a building permit, which constitutes a separate legislative requirement. Prior to any building work commencing on site, a building permit must be obtained. Significant penalties apply under the *Building Act 2011* for any failure to comply with this requirement.
- 6. The proponent is advised of the requirements under the *Dangerous Goods Safety Act 2004* and Regulations to obtain a Dangerous Goods Site Licence and a Dangerous Goods Pipeline Registration from the Department of Mines, Industry Regulation and Safety.
- 7. The proponent is advised to liaise with the Fremantle Ports with regard to approvals required to be obtained for development within adjoining Lot 497 Port Road, Kwinana Beach.
- 8. The proponent is advised to liaise with DevelopmentWA regarding the construction of the pipelines within the services corridor (Lot 110 Kwinana Beach Road, Kwinana Beach) in relation to the terms of the easement agreement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019.
- 9. Based on the information provided with this application, the Department of Water and Environmental Regulation (DWER) advises that a licence amendment or a works approval for the proposal may not be required, however, in the event there are modifications to the proposal that may have implications on aspects of environmental and/or water management, the Department should be notified to enable the implications to be assessed.
- 10. The proponent is advised that due to the history of potentially contaminating activities at the subject land, the Department of Water and Environmental Regulation (DWER) recommends that all ground disturbing works be undertaken in accordance with a construction environment management plan that includes provisions for 'unexpected finds', waste management and occupational health and safety. In the event that known or suspected contamination is identified during the works (such as stained or odorous soils), the Department should be notified and the contamination managed in accordance with the Department's Contaminated Sites Guidelines.

- 11. The proponent is advised of the requirements under the *Environmental Protection Act 1986* to obtain a clearing permit for the clearing of native vegetation from the Department of Water and Environmental Regulation.
- 12. The proponent is advised that there shall be no encroachment into the rail corridor prior to, during and post construction.
- 13. The proponent shall make good any damage to the existing verge vegetation within the Kwinana Beach Road reserve to the satisfaction of Main Roads Western Australia.
- 14. Prior to the commencement of works, the proponent shall submit a "Notice of the Proposal" with design plans for the Caustic Pipeline where it crosses any Main Roads road reservations (Kwinana Beach Road, Kwinana) to enquiries@mainroads.wa.gov.au attention to "Works by Others" branch to obtain an 'In Principal" agreement.

Details: outline of development application

| In a set Zausinau | MDC. | Lata O O O FOC Indicatrial | |
|--------------------------|------|--|--|
| Insert Zoning | MRS: | Lots 2, 3, & 506 – Industrial | |
| | | Lot 110 – Special Industrial | |
| TPS: | | General Industry | |
| Insert Use Class: | | General Industry & Private Utility (Pipeline) | |
| Insert Strategy Policy: | | City of Kwinana Local Planning Policy No. 5 – | |
| | | Development Contribution Towards Public Art; | |
| | | City of Kwinana Local Planning Policy No. 11 – | |
| | | Site Requirements and Standards for | |
| | | Development within the Industrial Zones. | |
| Insert Development Sch | eme: | Local Planning Scheme No. 2 | |
| Insert Lot Size: | | Lot 2 – 8.89 ha | |
| | | Lot 3 – 8.11 ha | |
| | | Lot 110 – 4.14 ha | |
| | | Lot 506 – 4.52 ha (main subject site) | |
| Insert Existing Land Use | e: | General Industry | |

Coogee Chemicals Pty Ltd (the proponent) proposes to construct additions to the existing tank farm (referred to as the Coogee North Tank terminal) at Lot 506 Kwinana Beach Road (the main subject site). Lot 506 Kwinana Beach Road will be referred to as the subject site throughout this report.

The subject site is zoned General Industry under the City's Local Planning Scheme No. 2 (LPS2) and Industrial under the Metropolitan Region Scheme (MRS). The proposal also entails the construction of a shared pipeline from the Kwinana Bulk Jetty through several properties, including Lot 497 Port Road (not part of this application), Lots 110, 2 and 3 Kwinana Beach Road and into Lot 506. These properties are zoned General Industry under LPS2 and Industrial under the MRS, with the exception of Lot 110 which is zoned Special Industrial under the MRS.

The proposal includes the following works;

- Construction of a 32 metre (m) diameter x 24.5m high storage tank to be used for the storage of caustic soda. The tank will have a capacity of 29,000 tonnes.
- Construction of the foundation only for a future second storage tank. Further planning approvals will be required for the construction of the second storage tank.
- Construction of a concrete bund wall and floor area for the two storage tanks;
- Construction of a below ground 3-way valve shared pipeline from the Kwinana Bulk Jetty through Lot 497 Port Road, Kwinana Beach. Lot 497 is zoned Port Installations under the MRS and the proposed pipeline is considered as Port works hence approval is not required under the MRS, however, separate approval is required from Fremantle Ports.
- Construction of an above ground shared pipeline within the DevelopmentWA services corridor (Lot 110 Kwinana Beach Road), which will connect into Lot 12 Kwinana Beach Road (the subject of the development application DAP/ 20/01787).
- The pipeline will continue above ground on the existing elevated pipe bridge (current approval for the elevated pipe bridge, (City's Reference: DA7650) under the MRS and LPS2 granted in January 2013)).
- The pipeline will then continue below ground through Lots 2 and 3 Kwinana Beach Road, then underneath Kwinana Beach Road and into Lot 506 Kwinana Beach Road.

The raw caustic is delivered from ships via the Kwinana Bulk Jetty, then transferred by pipelines through Lot 497 Port Road (not part of this application), Lot 110 Kwinana Beach Road and Lots 2 and 3 Kwinana Beach Road, to storage tanks on the subject site, where it will be distributed by pipe via existing infrastructure. The storage and transfer of caustic soda does not require isolation from other buildings, hence it is not considered as a Hazardous Industry under LPS2. No caustic soda will be transported by vehicle from the new tank at this terminal.

Background:

Site Context

The main subject site (Lot 506), referred to as the Coogee Chemicals North Tank Terminal is located within the Kwinana Industrial area, on the corner of Kwinana Beach Road and Patterson Road in Kwinana Beach. It contains an existing administration building, several warehouse/factory type buildings and numerous storage tanks located in the south western corner of the site. Coogee Chemicals manufactures a range of bulk inorganic chemicals for the fertiliser industry.

Lot 506 has been subject to a number of planning approvals issued by the City of Kwinana over the years for the existing tank farm and warehouse/processing buildings. The most recent application, (Reference: DA9570) was granted by the City under delegation on 4 May 2020. Approval was granted for bulk earthworks and civil works for the storage tank, the subject of this application. These works have since commenced on site.

Lots 2 and 3 Kwinana Beach Road are located to the south of Lot 506 and are currently used for the storage of petroleum products. These two properties are subject to pipeline easements and the proposed pipeline will be within the existing easements owned and managed by Coogee Chemicals Pty Ltd (or its subsidiary).

Lot 110 Kwinana Beach Road is an existing DevelopmentWA services corridor containing existing above ground pipelines and the elevated pipe bridge. The elevated pipe bridge has capacity to carry multiple pipelines to and from the Kwinana Bulk Jetty and to and between Coogee Chemicals' various facilities on either side of Kwinana Beach Road.

Legislation and Policy:

Legislation

Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015
Planning and Development (Development Assessment Panels) Regulations 2015
Environmental Protection Act (EP Act) 1986 and relevant Regulations
Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992
Health (Miscellaneous Provisions) Act 1911 and Regulations

State Government Policies

State Planning Policy 4.1 – State Industrial Buffer Policy

Local Planning Scheme

City of Kwinana, Local Planning Scheme No. 2

Local Policies

Local Planning Policy 5 – Development Contribution Towards Public Art Local Planning Policy 8 – Designing Out Crime Local Planning Policy 11 – Site Requirements and Standards for Development within Industrial Zones.

Consultation:

Public Consultation

The proposed General Industry – Storage Tank is a "P" (Permitted) use under LPS2 and does not require advertising. The proposed Private Utility (pipeline) is an "AA" (Discretionary) use under LPS2, and may require advertising. The pipelines are proposed through several properties including Lot 497 Port Road, which is owned by Fremantle Ports and does not form part of this application. The other properties, being Lot 110 Kwinana Beach Road and Lots 2 and 3 Kwinana Beach Road are owned by DevelopmentWA and Coogee Chemicals Pty Ltd (or its subsidiary) which are all party to this application. In this respect, the application was not advertised to the owners of these properties.

Consultation with other Agencies or Consultants

The application was referred to a number of agencies for their comments, including:

- Department of Mines, Industry Regulation and Safety (DMIRS)
- Department of Water and Environmental Regulation (DWER)
- Main Roads WA (MRWA)
- Fremantle Ports (FP)
- Westport
- Kwinana Industries Council (KIC)
- Dampier Bunbury Pipeline operator (DBP)
- Development WA

The City has summarised the matters raised in agency responses below.

Department of Mines, Industry Regulation and Safety

The application was referred to DMIRS for comment as it requires a dangerous goods licence and registration of the proposed pipelines. DMIRS advised that the storage and handling of dangerous goods is subject to compliance with the *Dangerous Goods Safety Act 2004* and that an amendment of the current Licence to Store Dangerous Goods and pipeline registration is required. An advice note has been included to that effect.

Department of Water and Environmental Regulation

The application was referred to DWER in relation to site contamination, existing vegetation, air quality, a Works Approval and Licencing under the *Environmental Protection Act 1986*. A copy of the advice can be seen in Attachment 7.

The DWER Industry Regulation Branch provided comment as summarised below:

- Native Vegetation: a clearing permit may be required for the clearing of the vegetation within the Kwinana Beach Road reserve. It is possible that the remnant vegetation that occurs in the south of Lot 506 may be exempt in accordance to the Environmental Protection (Clearing of Native Vegetation) regulations, however, the clearing is not exempt until the planning application has been approved. The proponent has been advised to contact the Department to determine if an exemption applies.
- Works Approval DWER advises that the proposal does not seem to trigger section 53 of the EP Act, which relates to changes to emissions or discharges from the prescribed premises due to new works at the premises. The Department concurs with the proponent that a licence amendment or a works approval for the proposal is not required.

The DWER Contaminated Sites branch noted that contamination was not identified at the portion of Lot 506, the subject of this application. It further advised that the Department had no objections to the proposed industrial land use given the application is for continued industrial land use and will not result in a change in land use sensitivity. However, the Department considered that significant ground disturbing activities are likely to be required to facilitate the construction of the tank and the underground portions of the pipeline. Given the history of industrial land uses on the subject site, an advice note was recommended requiring ground disturbing works be undertaken in accordance with a construction environment management plan. In the event of the identification of known or suspected contamination during the works, the Department is be notified and the contamination managed in accordance with the department's Contaminated Sites Guidelines. The proponent

has been advised of this requirement and has been recommended for inclusion as an advice note.

Main Roads Western Australia

The application was referred to MRWA due to its proximity to Patterson and Kwinana Beach Roads which are both under the jurisdiction of MRWA. The Transport Impact Statement (TIS) submitted with the application noted there would be no additional traffic movements as no caustic soda would be transported by vehicle from the new tank at this terminal. MRWA concurred with this assessment.

In addition, a portion of the above ground pipeline is proposed on the elevated pipe bridge which spans across the southern side of Kwinana Beach Road and a section of the underground pipeline is proposed underneath the northern side of Kwinana Beach Road.

MRWA supported the proposal subject to the proponent making good any damage to the existing verge vegetation within the Kwinana Beach Road reserve. In addition, the proponent is required to provide design plans for the caustic pipeline where it crosses any Main Roads road reservations and obtain an 'in principal' agreement prior to commencement of works. The proponent has been advised of these requirements and an advice note has been included.

Fremantle Ports

The application was referred to FP due to the proposed pipeline from the Kwinana Bulk Jetty via Lot 497 – Port Installations land. FP confirmed it had no issues with the proposal. It is noted that separate approvals will be required from FP for the portion of the pipeline within the Port Installations land.

Westport

Given the significance of the KIA and its future in relation to Westport, the application was referred to the Westport Taskforce for comment. Westport advised it had no objections as long as there is no encroachment into the rail corridor prior to, during and post construction. The proponent has been advised of this requirement and an advice note has been included.

Kwinana Industries Council

The application was referred to KIC as the administrative body of the Kwinana Industrial Area (KIA). KIC noted support of the application.

<u>Dampier to Bunbury Gas Pipeline</u>

The application was referred to DBP due to a pipeline easement to the western side of the subject site. DBP did not raise any objections to the proposal.

DevelopmentWA

The application was referred to DevelopmentWA due to the proposed pipeline within the services corridor. DevelopmentWA noted support of the application subject to required development approvals being obtained and the proposed pipeline being located entirely within the existing easement area. It was also noted that the

provision of any pipeline within the services corridor located on Lot 110 Kwinana Beach Road is subject to the terms of the easement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019. The proponent has been advised of these comments and an advice note has been included.

Bushfire

The subject site is located within a designated bush fire prone area as per the Department of Fire and Emergency Services (DFES) mapping. A Bushfire Attack Level (BAL) assessment report prepared by WA BAL Services and dated 11 March 2020 was submitted with the application. Based on the vegetation classification on site and surrounding properties, the slope and separation distances between the proposed tank and classified vegetation, the BAL report concluded that a BAL-Low applied to the subject site.

The BAL report was reviewed by the City's Bushfire consultants who concurred with the ultimate determined BAL assessment result of BAL-Low. The City's consultant further noted that although the proposal may constitute a high risk land use as it proposes the storage of caustic soda, given the BAL-Low outcome, no further bushfire consideration or application of bushfire management policy, guidelines or standards are required for the proposal.

Planning Assessment:

Local Planning Scheme

Land Use

The City has considered the proposed development against the land use classifications outlined in LPS2. Hazardous Industry is described under Appendix 4 (Interpretations) of LPS2 as: "an industry which by reason of the processes involved or the method of manufacture, or the nature of the materials used or produced requires isolation from other buildings."

The development application includes a Hazard Identification (HAZID) and Risk Assessment (HAZID) that outlines potential risk scenarios and risk incident probabilities related to the products proposed to be stored at the facility. The assessment considered potential risk scenarios associated with the proposal, such as tank rupture, tank spills, and pipeline leaks. The assessment notes that although Caustic soda is classified as a class 8 Dangerous Good, it does not require isolation from other buildings and a loss of containment will have no impact to human health on neighbouring facilities. In addition, with appropriate controls and measures put in place, the risk associated with such a development can be substantially reduced. The subject site is located approximately 1300m from Wells Park (the nearest sensitive land use) which is greater than the maximum recommended separation distance of 1000m for bulk chemical storage within the Environmental Protection Authority Guidance for the Assessment of Environmental Factors (Separation Distances between Industrial and Sensitive Land uses) No. 3, June 2005.

City Officers have considered the level of risk associated with the development to determine whether the land use requires isolation from other buildings. Given the information provided in the risk assessment, it is not considered that the proposal meets the definition of a Hazardous Industry. The City considers the proposal

represents a 'General Industry' use in the context of LPS2, which is classified as a "P" (Permitted) use, provided it complies with the relevant standards and requirements laid down in LPS2 and all conditions (if any) imposed by the responsible authority in granting planning consent. The City's assessment of the proposal against the relevant development standards of LPS2 is discussed below.

Table 1 - Local Planning Scheme No. 2

| Item | Requirement | Proposal | Compliance |
|--|---|---|---------------------------|
| 6.8.4 – Plot Ratio and Site Coverage | 0.8 Plot Ratio 65% Site Cover | The plot ratio and site coverage of the lot is well within LPS2 requirements. The site cover is approximately 25% of the site area. | Complies |
| 6.8.5 – Minimum Setbacks from Boundaries | | Front - 11.48m (min) Side - 11.14m (min) Rear - +300m | Refer to discussion below |
| 6.8.6– Appearance of Buildings | Blend into natural and/or existing development | Proposed steel tank to be painted grey to match with the existing tanks on site. Tank will be partially screened from the road by existing mature vegetation in the Kwinana Beach Road verge. | Complies |
| 6.8.7 – Landscaping Areas | 5% of site | Existing – 5% | Complies |
| 6.8.8 – Car Parking and Crossovers | Car Parking Spaces to be provided in accordance with Table III of LPS2 | Existing – proposal does not trigger additional car parking | Complies |
| 6.8.9 – Loading and Unloading | Loading / Unloading areas to be maintained in good order | soda to be | Complies |
| 6.8.10 – Waste Water and Effluent Disposal | Waste water to be managed appropriately to preserve the environment and | There is an existing Stormwater Management Plan for the site. | Complies |

| | groundwater | | |
|-----------------------------|---|---|----------|
| 6.8.11 – Recycled Water | Desirability of use of recycled water. | The development does not generate industrial process water. | N/A |
| 6.8.12 – Fencing | A security fence proposed on a front lot boundary shall be setback 1.5 metres from the front lot boundary and landscaping shall be established and maintained between these lines to the satisfaction of Council. | None proposed. | N/A |
| 6.8.13 – Materials Used | The facade on the principal frontage shall be constructed of brick, stone, masonry or such other such material approved by Council. | Existing brick administration building | Complies |
| 6.8.14 – Private Utility | Utility to be located within either a service corridor or a location that does not compromise future development, does not result in any adverse risk implications and is visually unobtrusive. | Portions of the proposed pipeline will be above and below ground, within an existing services corridor and within existing easements. The pipeline will also be on an existing elevated pipe bridge and is not considered to be visually obtrusive. | Complies |

Setbacks

The proposed tank will be setback 11.48m from Kwinana Beach Road, in lieu of 15m. The proposal meets all other side and rear setback requirements. The front setback variation is supported against clause 6.3.2 of LPS2 for the following reasons;

• The proposed 24.5m high tank is located in the south western corner of the subject site and will be partially screened from the road by existing mature vegetation within the Kwinana Beach Road reserve. It is noted that this

- section of Kwinana Beach Road reserve that abuts the subject site is approximately 30m wide, as shown in the street view at Attachment 6.
- The tank will be in keeping with existing tanks on site and will not be clearly visible from the street. In addition, the surrounding KIA is characterised by similar development.
- The subject site adjoins railway reserved land to the west and Patterson Road to the east and hence the tank would not directly impact on neighbouring properties.
- The proposed tank is located in an existing tank terminal area and would not obstruct safe movement of traffic on the site.
- All stormwater will be contained on site and will not runoff onto adjoining properties or the road.

Local Planning Policy 5: Development Contribution towards Public Art (LPP5)

LPP5 requires a contribution towards public art for new developments or major extensions within the General Industry Zone with a development cost in excess of \$2,000,000. The proposal is for an additional storage tank and associated pipeline and works with a development cost of \$10.5m.

The proponent is seeking an exemption towards the public art contribution and provides the following justification;

- The proposed works will not be accessible to the public;
- Coogee has spent significant amounts of money providing significant landscaping and keeping it in a highly maintained condition; and
- Coogee has spent a lot of money on numerous pieces of art which are held at Coogee's main administration and gardens in Kwinana.

Although the proponent's justification does not directly address the provisions of the Policy, City Officers have reviewed the request and provide the following comments;

- LPP5 defines 'Major Extension' as, "those extensions that introduce a new plant or physical infrastructure for a process chain and/or significant increases in throughput and production capacity. While not limited to, it may also refer to replacement and/or addition to administration buildings and/or other supporting facilities or buildings".
- Clause 3.3 of LPP5 provides exemption from public art contribution for development applications relating to refurbishment or upgrade of existing infrastructure.
- The existing tank farm at the Coogee North Terminal consists of numerous storage tanks of various sizes, an administration building, production warehouses, storage buildings, pipelines, and associated infrastructure. The intent of LPP5 is not to seek contributions towards public art for upgrades and refurbishments in the General Industry Zone where small upgrades or changes to existing processing plants may cost many millions of dollars, with little external impact on the site. In the context of the existing development, it is not considered that the proposed storage tank will greatly change the external appearance of the site, and hence not considered to be a major extension to the existing facility. Therefore, it is considered that the art contribution can be exempt in this instance.

Local Planning Policy 8: Designing Out Crime (LPP8)

The proposed development is for additions to an existing tank farm. The site contains an existing administration building and warehouse/processing buildings with existing security procedures. Vehicular access to the site is from Kwinana Beach Road, with two distinct access points, one leading to the administration and warehouse/processing buildings and the other one leading to the existing tank farm. The subject site is fenced along all boundaries with limited opportunity for the public to access the site.

It is considered that the development meets the objectives of LPP8.

<u>Local Planning Policy 11: Site requirements and standards for development within</u> Industrial Zones (LPP11)

LPP11 provides clarification for LPS2 provisions and alternative site requirements for when these provisions are proposed to be varied. General objectives and design principles are also included to facilitate quality design outcomes in the industrial area.

The existing administration building is located towards the front of the subject site and adjacent to existing car parking areas. It therefore meets the objectives of LPP11 which seek to encourage a high standard of development with flexible development controls and facilitate good quality design outcomes for both industrial operators and the wider community. The proposed storage tank is to be located within the south western corner of the site and setback 11.48m from the front subject site boundary in lieu of 15m. Notwithstanding this, the proposal is considered to meet the objectives and requirements of LPP11 as follows;

- The existing administration building is located forward of the existing warehouse/processing buildings on site at approximately 23m from Kwinana Beach Road. This is the main focal point of the subject site.
- The proposed tank is located in the south western corner of the site, in an area with existing tanks and will be partially screened from view of Kwinana Beach Road by the existing mature landscaping in the verge. The existing vegetation in the verge is required to be maintained to a high standard.
- Due to the wide Kwinana Beach Road verge (approximately 30m), the proposed 24.5m high tank will not adversely affect the streetscape of this industrial area which is characterised by similar tanks and industrial buildings.

Council Recommendation:

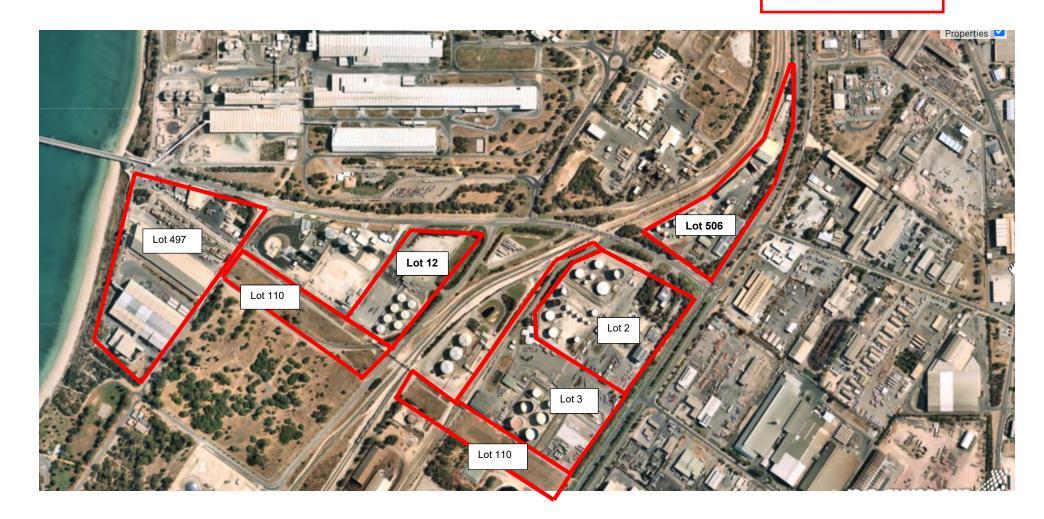
To be included following consideration at the Ordinary Council Meeting of 8 July 2020.

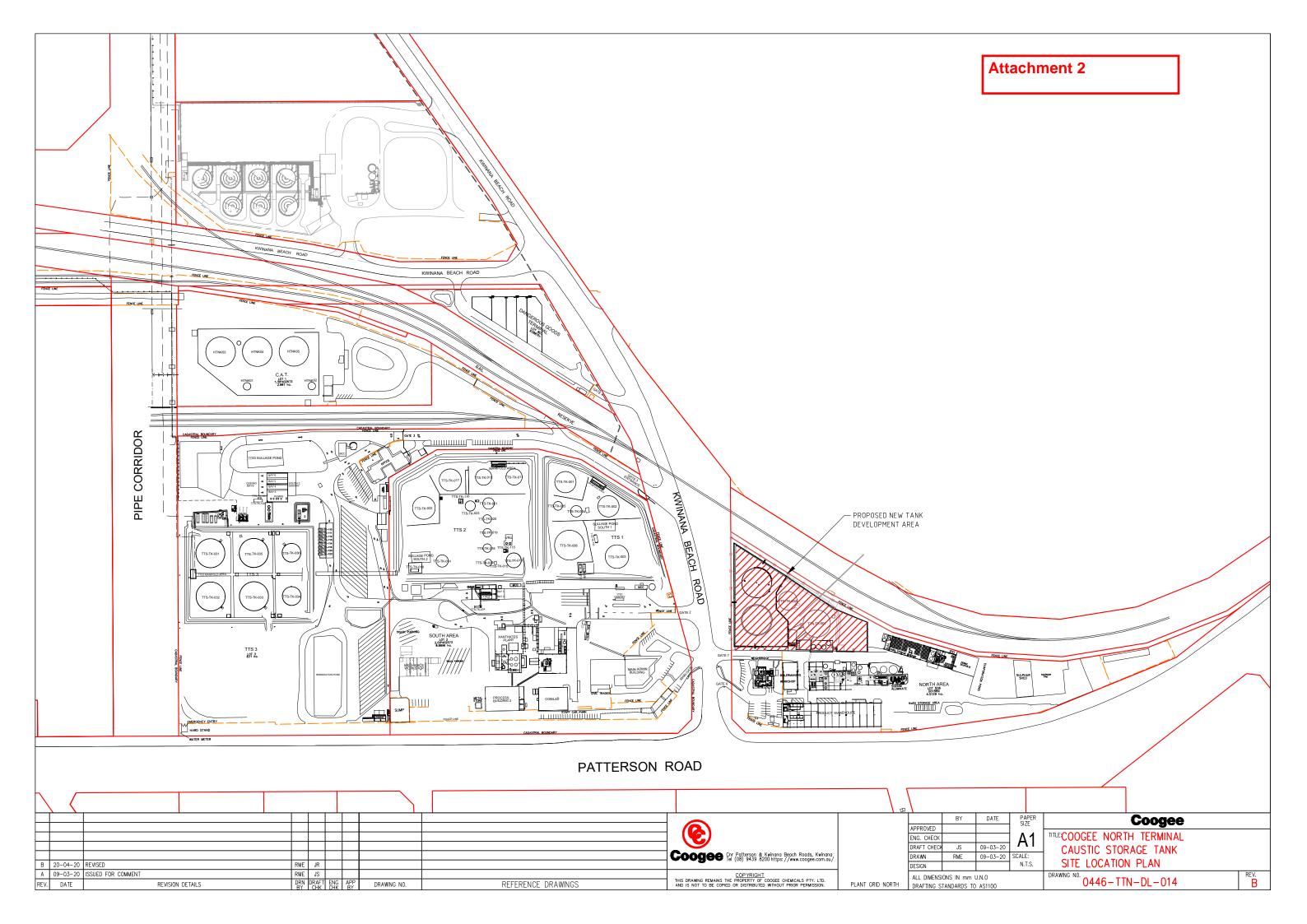
Conclusion:

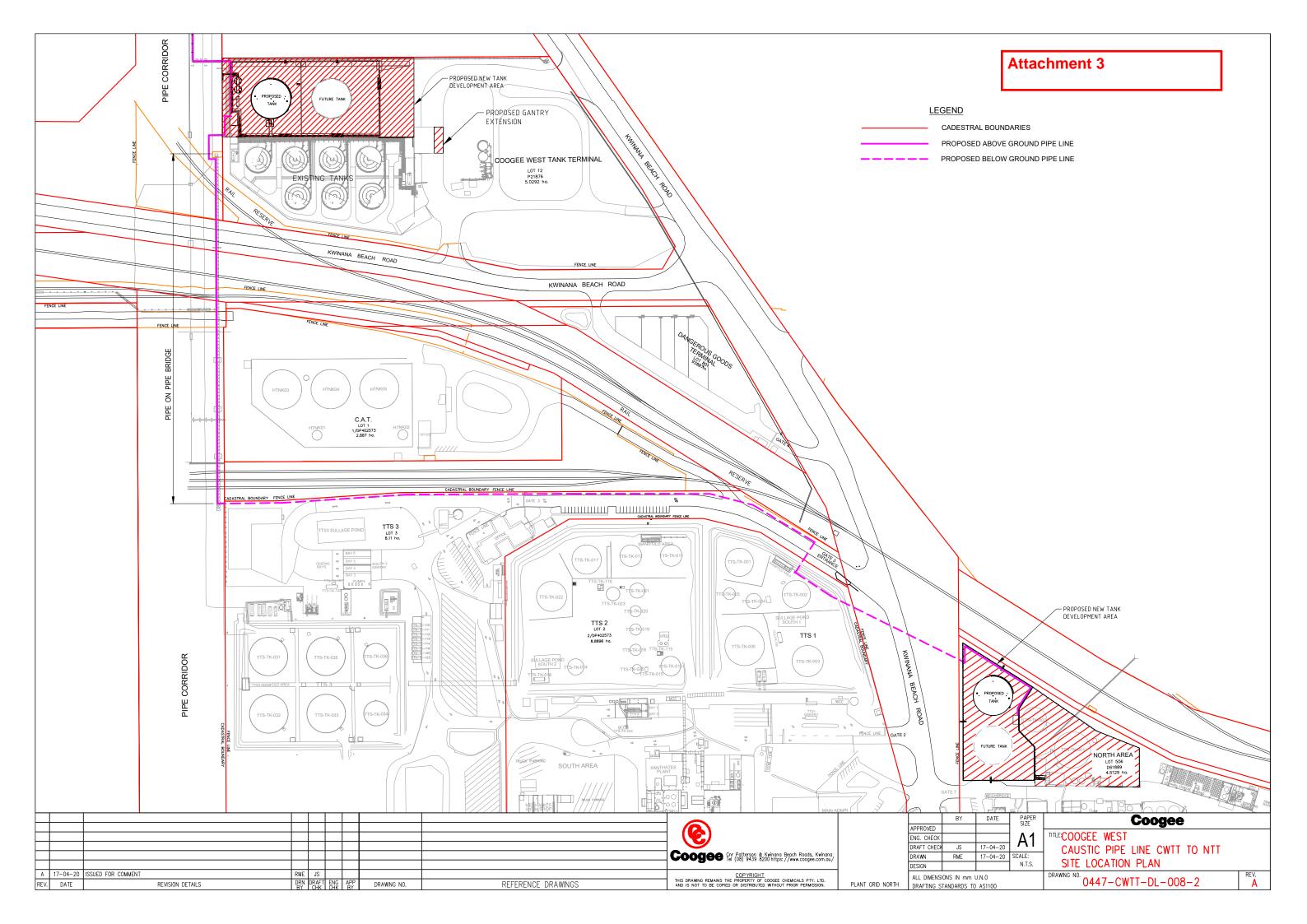
Upon assessment of the development against the objectives and requirements of LPS2, it is considered that the application can be approved subject to conditions. The development generally complies with the requirements of LPS2 and Local Planning

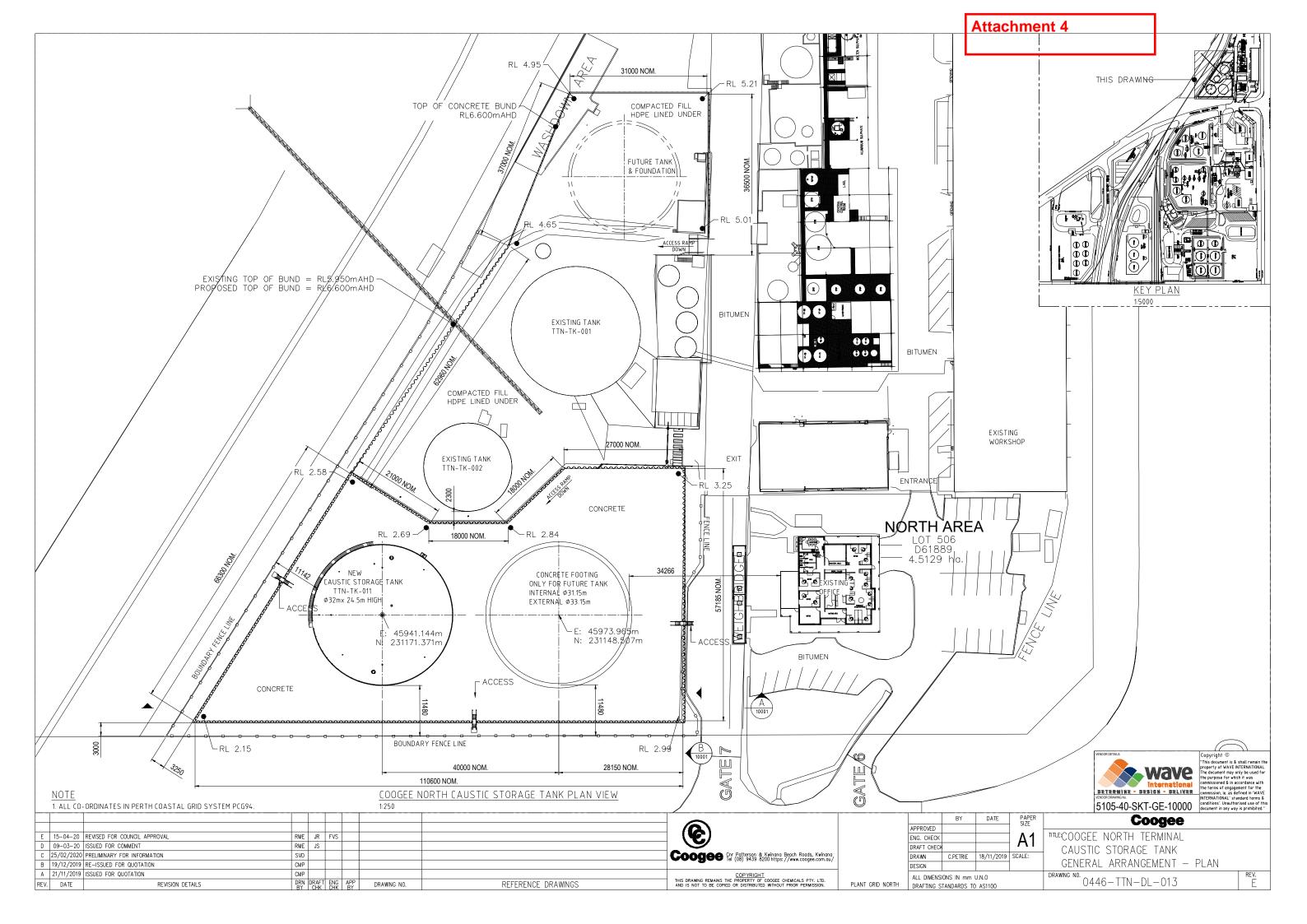
Policies and represents effective use of currently underutilised industrial land within the KIA.

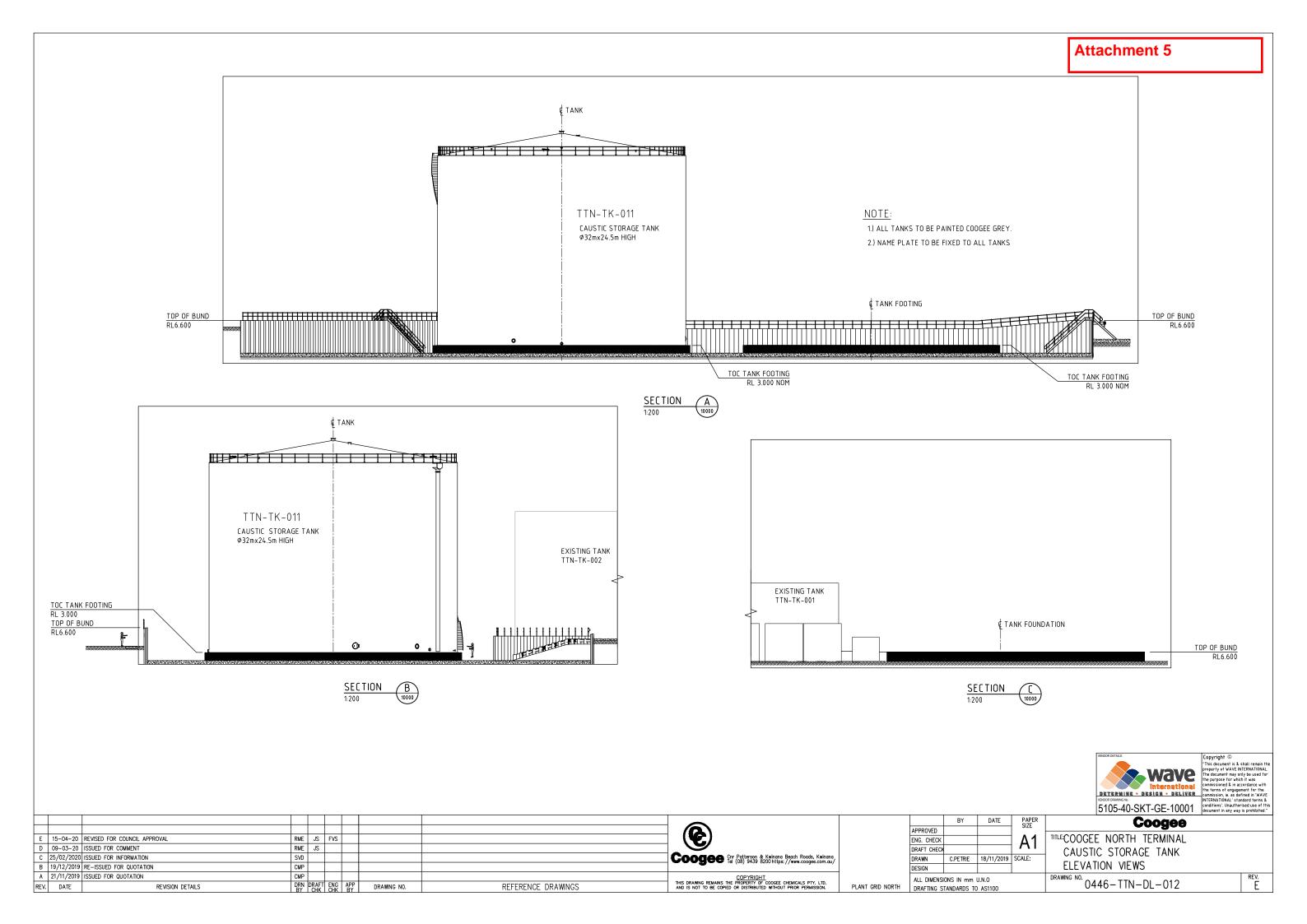
Attachment 1



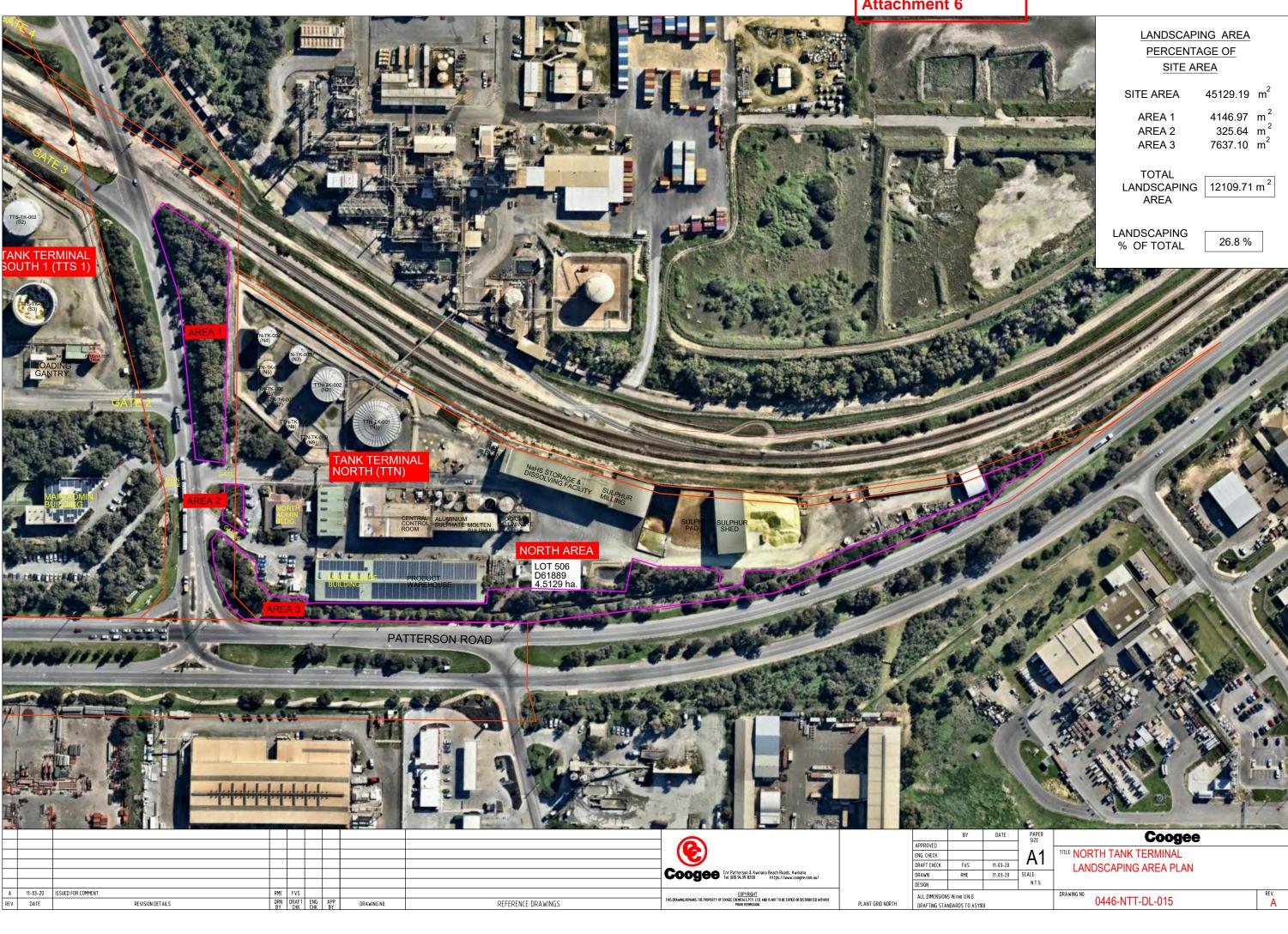








Attachment 6



Street view of Lot 506 Kwinana Beach Road showing tank terminal in the background





Your ref: DA9599, DA9600
Our ref: RF3779-04, PA033756
Enquiries: Jane Sturgess, Ph 9550 4228

City of Kwinana PO Box 21 Kwinana WA 6966

Attention: Felicitas Dhliwayo

Dear Felicitas

LOTS 12 AND 506 KWINANA BEACH ROAD, KWINANA BEACH - COOGEE CHEMICALS

Thank you for providing the two development applications at Lots 12 and 506 Kwinana Beach Rd, Kwinana Beach for the Department of Water and Environmental Regulation (Department) to consider.

The Department has identified that the proposed expansion and development has the potential for impact on environment values and/or management. In principle the Department does not object to the proposal, however key issues and recommendations are provided below and these matters should be addressed.

Issue

Native vegetation protection

Recommendation

Under section 51C of the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless undertaken under the authority of a clearing permit, or the clearing is subject to an exemption. Exemptions for clearing that are a requirement of written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act. Exemptions for low impact routine land management practices outside of environmentally sensitive areas (ESAs) are contained in the *Environmental Protection (Clearing of Native Vegetation) Regulations* 2004 (the Clearing Regulations).

Based on the information provided, no exemption applies to the proposed clearing if it occurs within the road reserve. It is possible the remnant vegetation that occurs in the south of Lot 506 may be exempt in accordance to the Environmental Protection (Clearing of Native Vegetation) Regulations, specifically Regulation 5, Item 1 - Clearing to construct a building. However, the clearing is not exempt until the planning application has been approved.

The Department has not received a clearing permit application relating to this proposal. Application forms are available from https://www.der.wa.gov.au/our-work/clearing-permits/46-clearing-permit-application-forms.

Additional information on how to apply for a clearing permit is available here: https://www.der.wa.gov.au/images/documents/your-environment/native-vegetation/Fact sheets/Fact Sheet - how to apply.pdf

Issue

Part V of the Environmental Protection Act 1986

Recommendation

The Department regulates emissions and discharges from the construction and operation of prescribed premises through a works approval and licensing process, under Part V of the *Environmental Protection Act 1986* (EP Act).

The categories of Prescribed premises are outlined in Schedule 1 of the *Environmental Protection Regulations* 1987.

The EP Act requires a works approval to be obtained before constructing a prescribed premises and makes it an offence to cause an emission or discharge unless a licence or registration is held for the premises.

The provided development application was reviewed in relation to works approval and licence requirements under Part V Division 3 of the EP Act.

Based on the information provided, this proposal does not seem to trigger section 53 of the EP Act, which relates to changes to emissions or discharges from the prescribed premises due to new works at the premises.

The applicant has had discussions with the Department regarding the proposal and informed the department that they would not seek a licence amendment or a works approval for the proposal. The Department does not disagree with this viewpoint.

Issue

Contaminated Sites

Recommendation

Please see attached correspondences to the City dated 8 May 2020.

In the event there are modifications to the proposal that may have implications on aspects of environment and/or water management, the Department should be notified to enable the implications to be assessed.

Should you require any further information on the comments please contact Jane Sturgess on 9550 4228.

Attachment 7

Yours sincerely

Brett Dunn

Program Manager – Planning Advice Kwinana Peel Region

11 / 05 / 2020



Your ref: DA9599 Our ref: DMO 1497

Enquiries: Lomas Capelli, Ph 08 9841 0120
Email: Lomas.capelli@dwer.wa.gov.au

Felicitas Dhliwayo Senior Planning Officer City of Kwinana

By email: Felicitas.Dhliwayo@kwinana.wa.gov.au and planning.team@kwinana.wa.gov.au

Dear Ms Dhliwayo

DEVELOPMENT APPLICATION NUMBER DA9599 - LOT 506 KWINANA BEACH ROAD, KWINANA

I refer to your email of 28 April 2020 to the Department of Water and Environmental Regulation (the department) regarding an application to the City of Kwinana for proposed industrial development at the above-mentioned site.

As per the requirements under section 58(6)(b) of the *Contaminated Sites Act 2003* (CS Act), advice is required as to the suitability of the land for the proposed works. Land at Lot 506 on Diagram 61889, along with nearby land parcels, was classified under the CS Act as *contaminated – remediation required* on 5 April 2007, and a memorial (reference number K282198) was placed on the certificate of title.

The classification was based on historical reports of spills and leaks of hydrocarbons (such as Solvesso 200) and sulphuric acid associated with current and historical use of the site for the manufacture, storage and distribution of chemicals.

Development application DA9599 proposes the construction of a 29,000 tonne caustic storage tank and associated infrastructure, including a pipeline between Lot 506 and Lot 12 on Plan 21876. Based on available information, contamination has not been identified at the portion of Lot 506 subject to the application. Given the application is for continued industrial land use, and will not result in a change in land use sensitivity, the department has no objection to the proposed development of Lot 506 for continued industrial land use. However, the department considers that significant ground disturbing works are likely to be required to facilitate the construction of the tank and the underground portions of pipeline. Therefore, and given the history of industrial uses at the land subject to the application, the department recommends that the following advice note be placed on any approval granted for the development:

Advice

Due to the history of potentially contaminating activities at the subject land, the Department of Water and Environmental Regulation recommends that all ground disturbing works be undertaken in accordance with a construction

environment management plan that includes provisions for 'unexpected finds', waste management and occupational health and safety. In the event that known or suspected contamination is identified during the works (such as stained or odorous soils), the department should be notified and the contamination managed in accordance with the department's Contaminated Sites Guidelines.

If you have any further queries, please contact Contaminated Sites Officer, Lomas Capelli, on 9841 0120.

Yours sincerely

Centillee

Andrew Miller

SENIOR MANAGER
CONTAMINATED SITES
Delegated Officer under section 91
of the Contaminated Sites Act 2003

8 May 2020



Enquiries: Thai Truong on (08) 9323 4815

Our Ref: 20/2949 (D20#456053) Your Ref: DA9599 and DA9600

3 June 2020

Chief Executive Officer City of Kwinana PO Box 21 KWINANA WA 6167

Email: customer@kwinana.wa.gov.au

Dear Sir/Madam,

DEVELOPMENT ASSESSMENT PLANNING APPLICATIONS - DA9599 (LOT 506 KWINANA BEACH ROAD, KWINANA) AND DA9600 (LOT 12 KWINANA BEACH ROAD, KWINANA)

In response to your correspondence received on 28 April 2020, Main Roads has no objections subject to the following conditions and advice notes being imposed:

Conditions

 The landowner/ applicant shall make good any damage to the existing verge vegetation within the Kwinana Beach Road reserve.

Advice

 Please submit a "Notice of the Proposal" with design plans for the Caustic Pipe Line where it crosses any Main Roads road reservations (Kwinana Beach Road, Kwinana) to <u>enquiries@mainroads.wa.gov.au</u> attention to "Works by Others" branch to obtain an "In Principal" agreement.

Should the City disagree with or resolve not to include as part of its conditional approval any of the above conditions or advice, Main Roads requests an opportunity to meet and discuss the application further, prior to a final determination being made.

Main Roads requests a copy of the City's final determination on this proposal to be sent to planninginfo@mainroads.wa.gov.au quoting the file reference above.

Yours sincerely

Zeljko Zagorac

Statutory Road Planning Manager

From: SENYCIA, Patrick <patrick.senycia@dmirs.wa.gov.au>

Sent: Friday, 8 May 2020 5:33 PM

To: Felicitas Dhliwayo

Subject: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana) and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Dear Ms Dhliwayo,

Thank you for your email of 28 April 2020 regarding Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana) and DA9600 (Lot 12 Kwinana Beach Road, Kwinana).

I advise that the storage and handling of dangerous goods is subject to compliance with the *Dangerous Goods Safety Act 2004* and associated regulations such as the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*.

Coogee Chemicals Pty Ltd has made contact with DMIRS regarding its proposed caustic (sodium hydroxide) storage tanks and pipeline and feedback has been provided regarding amendment of the current Licence to Store Dangerous Goods and pipeline registration.

The Urea Ammonium Nitrate (UAN) solution is not subject to the abovementioned legislation as it is not classified as dangerous goods.

Please do not hesitate to contact me should you have any queries.

Regards,

Patrick Senycia | Principal Inspector On Shore Dangerous Goods and Critical Risks Directorate

Department of Mines, Industry Regulation and Safety

Level 2, 1 Adelaide Terrace East Perth WA 6004

Tel: +61 8 9358 8044 | Mob: 0418 914 530

patrick.senycia@dmirs.wa.gov.au | www.dmirs.wa.gov.au

From: Mace, Justyna < Justyna.Mace@westport.wa.gov.au>

Sent: Monday, 4 May 2020 10:03 AM

To: Felicitas Dhliwayo

Cc: westportreferrals; Valencia, Lina

Subject: RE: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Hi Felicitas

Thanks, we reviewed the two applications and have the following comments:

| Application No | Lot address | Westport Comment |
|----------------|----------------------------------|--|
| DA9599 | Lot 506 Kwinana Beach Rd Kwinana | Westport does not object as long as there is no encroachment into the rail corridor prior to, during and post construction |
| DA9600 | Lot 12 Kwinana Beach RD Kwinana | No issues identified |

Kind Regards, Justyna Mace Program Delivery Manager | Westport Office

469 Wellington Street, Perth WA 6000 Tel: (08) 6000 0000 | Fax: (08) 6551 6492

Email: <u>Justyna.Mace@westport.wa.gov.au</u> | Web: <u>https://www.mysaytransport.wa.gov.au/westport</u>





From: Ellen Sherman < Ellen.Sherman@developmentwa.com.au>

Sent: Monday, 4 May 2020 2:06 PM

To: Felicitas Dhliwayo

Subject: RE: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Hi Felicitas

I confirm DevelopmentWA, as the owner of the adjoining Lots 108 & 110 on Deposited Plan 400167, does not have any objection to the proposed development on Lot 12 on DP 21867 so long as the proximity of the tanks to the lot boundary do not impede on any future development approvals for the adjoining portion of Lot 108.

DevelopmentWA does not have any objection to, or comments on, the proposed development on Lot 506 on DP 61889.

The provision of any pipeline within the service corridor located on Lot 110 on DP 400167 is subject to the terms of the easement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019, and this includes the prior written consent of DevelopmentWA and the proposed pipeline being located entirely within the existing easement area.

Coogee have not yet provided DevelopmentWA with any detailed plans showing the exact location of the proposed new pipe and the alignment in the DAP is only indicative. The easement also requires Coogee to obtain all relevant Local and Public Authority approvals. I note in the DAP that the pipe is identified as being above ground. This will only be acceptable to DevelopmentWA if DMIRS confirm it is acceptable and the sections that cross the access tracks throughout the service corridor must be below ground. In addition the location of the proposed pipeline must not adversely affect any of the existing service corridor users and their associated pipelines/infrastructure.

Should you require any further information please do not hesitate to contact me.

Regards

Ellen Sherman

Leasing Manager



Form 1 – Responsible Authority Report

(Regulation 12)

| Property Location: Lots 2, 3, 110 and 12 Kwinana Beach Kwinana Beach General Industry - Construction of a S Tank, Associated Private Utility (Pipeli | , | | |
|---|--|--|--|
| | 1 | | |
| Tank Associated Private Utility (Pineli | General Industry - Construction of a Storage | | |
| Tank, Associated I heat Office (1 pen | ne) | | |
| and associated infrastructure | | | |
| DAP Name: Metro Outer JDAP | | | |
| Applicant: John Reid (Coogee Chemicals) | | | |
| Owner: Lots 2 & 12 Kwinana Beach Road – C | oogee | | |
| Chemicals Pty Ltd | | | |
| Lot 3 Kwinana Beach Road – Termina | ls | | |
| West Pty Ltd (a subsidiary of Coogee | | | |
| Chemicals Pty Ltd) | | | |
| Lot 110 Kwinana Beach Road – Weste | | | |
| Australian Land Authority - Developme | entWA | | |
| Value of Development: \$10,000,000 | | | |
| LG Reference: DA9600 | | | |
| Responsible Authority: City of Kwinana | | | |
| Authorising Officer: Felicitas Dhliwayo | | | |
| Senior Statutory Planning Officer | | | |
| DAP File No: DAP/ 20/01787 | | | |
| Report Due Date: 28 July 2020 | | | |
| Application Received Date: 12 May 2020 | | | |
| Application Process Days: 90 Days | | | |
| Attachment(s): 1: Aerial Photograph | | | |
| 2: Pipeline Overall Plan | | | |
| 3: Pipeline Site Location Plan | | | |
| 4: General Arrangement Plan 5: Elevation Plan | | | |
| 6: Landscaping Area Plan & Street Vie | w Dlan | | |
| 7: Response from Department of Water | | | |
| Environmental Regulation | a a lu | | |
| 8: Response from Main Roads WA | | | |
| 9: Response from Department of Mine | s | | |
| Industry Regulation and Safety | -, | | |
| 10: Response from Westport | | | |
| 11: Response from DevelopmentWA | | | |
| 12: Council Minutes | | | |
| 1.2. 3.3 | | | |

Officer Recommendation:

That the Metro Outer JDAP resolves to:

Approve DAP Application reference DAP/ 20/01787 and accompanying plans

- Pipeline Overall Plan 0448-WHARF- DL-001 Rev B
- Pipeline Site Location Plan 0447 CWTT DL-008-2 Rev A;
- General Arrangement Plan 0447-CWTT-DL-009 Rev F;

- Elevation Views 0447-CWTT-DL-010 Rev D; and
- Landscape Area Plan 0447-CWTT-DL-011 Rev A

in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Kwinana Local Planning Scheme No. 2, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

Conditions

- 1. This decision constitutes planning approval only and is valid for a period of two (2) years from the date of approval. If the subject development is not substantially commenced within the two (2) year period, the approval shall lapse and be of no further effect.
- 2. The premises being kept in a neat/tidy condition at all times by the owner/occupier to the satisfaction of the City of Kwinana.
- 3. Dust control measures shall be implemented for the duration of the site and construction works to the satisfaction of the City of Kwinana.
- 4. The existing landscaping shall be maintained to a high standard at all times to the satisfaction of the City of Kwinana.
- 5. Stormwater drainage from roofed and paved areas being disposed of on-site or as may otherwise be approved under Environmental Protection Authority (EPA) Licence conditions or approved Stormwater Management Plan to the satisfaction of the City of Kwinana.
- Areas within the bund and gantry loading areas are to be constructed with an impervious hardstand that is graded to capture and direct any spillages away from the storage tanks to a containment area for treatment or disposal to the satisfaction of the City of Kwinana.
- 7. The bunded area shall be connected to a separate drainage system to the satisfaction of the City of Kwinana.

Advice Notes

- 1. The proponent is advised that all future development (including the future second storage tank) must be submitted to and approved by the City of Kwinana prior to the commencement of works or alteration of land use.
- 2. Should the proponent be aggrieved by the decision or any condition imposed, then an application for review may be lodged with the State Administrative Tribunal within 28 days of notification of the decision and right of review.
- 3. The Minister for Planning has issued a formal notice extending the deadline for substantial commencement by an additional two (2) years for all applications approved during the current State of Emergency. In effect, this means that the timeframe for substantial commencement is now four (4) years from the date of this determination.

- 4. The proponent should ensure that the proposed development complies with all other relevant legislation, including but not limited to the;
 - a. Environmental Protection Act 1986;
 - b. Health Act and Regulations;
 - c. Environmental Protection (Noise) Regulations 1997;
 - d. Environmental Protection (Unauthorised Discharges) Regulations 2004:
 - e. Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992;
 - f. Dangerous Goods Safety Act 2004 and Regulations;
 - g. Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007:
 - h. Contaminated Sites Act 2003; and
 - i. National Construction Code.
- 5. The proponent is advised that this approval is not a building permit, which constitutes a separate legislative requirement. Prior to any building work commencing on site, a building permit must be obtained. Significant penalties apply under the *Building Act 2011* for any failure to comply with this requirement.
- 6. The proponent is advised of the requirements for registration of the pipeline with the Department of Mines, Industry Regulation and Safety.
- 7. The proponent is advised to liaise with the Fremantle Ports with regard to approvals required to be obtained for development within adjoining Lot 497 Port Road, Kwinana Beach.
- 8. The proponent is advised to liaise with DevelopmentWA regarding the construction of the pipelines within the services corridor (Lot 110 Kwinana Beach Road) in relation to the terms of the easement agreement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019.
- 9. Based on the information provided with this application, the Department of Water and Environmental Regulation (DWER) advises that a licence amendment or a works approval for the proposal may not be required, however, in the event there are modifications to the proposal that may have implications on aspects of environmental and/or water management, the Department should be notified to enable the implications to be assessed.
- 10. The proponent is advised that due to the history of potentially contaminating activities at the subject land, the Department of Water and Environmental Regulation (DWER) recommends that all ground disturbing works be undertaken in accordance with a construction environment management plan that includes provisions for 'unexpected finds', waste management and occupational health and safety. In the event that known or suspected contamination is identified during the works (such as stained or odorous soils), the Department should be notified and the contamination managed in accordance with the Department's Contaminated Sites Guidelines.
- 11. The proponent shall make good any damage to the existing verge vegetation within the Kwinana Beach Road reserve to the satisfaction of Main Roads WA.

Details: outline of development application

| Insert Zoning | MRS: | Lots 2, & 3 – Industrial | | |
|-------------------------|-------|--|--|--|
| | | Lot 12 & 110 – Special Industrial | | |
| | TPS: | General Industry | | |
| Insert Use Class: | | General Industry & Private Utility (Pipeline) | | |
| Insert Strategy Policy: | | City of Kwinana Local Planning Policy No. 5 – | | |
| | | Development Contribution Towards Public Art; | | |
| | | City of Kwinana Local Planning Policy No. 11 – | | |
| | | Site Requirements and Standards for | | |
| | | Development within the Industrial Zones. | | |
| Insert Development Sch | neme: | Local Planning Scheme No. 2 | | |
| Insert Lot Size: | | Lot 2 – 8.89 ha | | |
| | | Lot 3 – 8.11 ha | | |
| | | Lot 12 – 5.03 ha | | |
| | | Lot 110 – 4.14 ha | | |
| Insert Existing Land Us | e: | General Industry | | |

Coogee Chemicals Pty Ltd (the proponent) proposes to construct additions to the existing tank farm (referred to as Coogee West Tank terminal) at Lot 12 Kwinana Beach Road (the main subject site). Lot 12 Kwinana Beach Road will be referred to as the subject site throughout this report.

The subject site is zoned General Industry under the City's Local Planning Scheme No. 2 (LPS2) and Special Industrial under the Metropolitan Region Scheme (MRS). The proposal also entails the construction of a shared pipeline from the Kwinana Bulk Jetty through Lot 497 Port Road (not part of this application), and Lot 110 Kwinana Beach Road, then into the subject site. Lot 110 Kwinana Beach Road is zoned General Industry under LPS2 and Special Industrial under the MRS. The proposed pipeline will continue from Lot 12, onto the existing elevated pipe bridge within Lot 110 and then through Lots 2 and 3 Kwinana Beach Road and into Lot 506 Kwinana Beach Road (subject to a separate application DAP/20/01786).

The proposal includes the following works;

- Construction of a 32m diameter x 24.5m high storage tank to be used for the storage of Urea Ammonium Nitrate (UAN). The tank will have a capacity of 29,000 tonnes.
- Construction of the foundation only for a future second storage tank. Further development approvals will be required for the construction of the second storage tank.
- Construction of a concrete bund wall and floor area for the two storage tanks.
- Expansion to the existing loading gantry.
- Associated equipment including two wash water tanks.
- Construction of a shared pipeline from the Kwinana Bulk Jetty into the subject site. The shared pipeline is controlled by a 3-way valve at the tee intersection of the wharf and within the subject site (Lot 12) to allow caustic to be transferred all the way from the Kwinana Bulk Jetty to caustic storage in the Coogee North Tank terminal at Lot 506 Kwinana Beach Road (subject of development application DAP/20/01786) or UAN to only go to the storage tank at Lot 12.

- The shared pipeline will be below ground from the Kwinana Bulk Jetty through Lot 497 Port Road, Kwinana Beach. Lot 497 is zoned Port Installations under the MRS and the proposed pipeline is considered as Port works hence approval is not required under the MRS. Separate approval is required from Fremantle Ports.
- The shared pipeline will be above ground within the DevelopmentWA services corridor (Lot 110 Kwinana Beach Road), which will connect into the subject site.
- The caustic line will continue from the 3-way valve at Lot 12 Kwinana Beach Road and over the existing elevated pipe bridge within the DevelopmentWA services corridor. The current approval for the elevated pipe bridge (City's Reference: DA7650) under the MRS and LPS2 was granted in January 2013.
- The caustic pipeline will then continue below ground through Lots 2 and 3 Kwinana Beach Road, then underneath Kwinana Beach Road and into Lot 506 Kwinana Beach Road (the subject of the development application DAP/20/01786).

The proposed expansions will receive and store UAN delivered by ships via the Kwinana Bulk Jetty and transferred to tanks via pipelines. The products will then be dispatched to a truck loading gantry and onto customers. The Transport Impact Statement (TIS) provided with this application estimates that the proposal will generate a maximum of ten additional truck trips per day and one truck trip during any hour. UAN is not considered a Dangerous Good hence it is considered as General Industry under LPS2.

Background:

Site Context

The subject site is located within the Kwinana Industrial Area (KIA), on the corner of Kwinana Beach Road and Port Road in Kwinana Beach. It contains an existing small office building, loading gantry, and seven storage tanks located to the rear of the subject site. The existing tanks are for the storage of diesel fuels and sodium hydroxide. Coogee Chemicals operate bulk chemicals and hydrocarbon terminals as well as various chemical manufacturing plants in the KIA.

Lot 12 has been subject to a number of planning approvals issued by the City of Kwinana over the years for the existing tank farm, loading gantry and office building. The most recent application, (Reference: DA9569) was granted by the City under delegation on 4 May 2020. Approval was granted for bulk earthworks and civil works for the storage tank, the subject of this application. These works have since commenced on site.

Lot 110 Kwinana Beach Road is an existing DevelopmentWA services corridor containing existing above ground pipelines and the elevated pipe bridge. The elevated pipe bridge has capacity to carry multiple pipelines to and from the Kwinana Bulk Jetty and to and between Coogee Chemicals' various facilities on either side of Kwinana Beach Road.

Lots 2 and 3 Kwinana Beach Road are located to the east of Lot 12 and are currently used for the storage of petroleum products. These two properties are subject to

pipeline easements and the proposed pipeline will be within the existing easements which are owned and managed by Coogee Chemicals Pty Ltd (or its subsidiary).

Legislation and Policy:

Legislation

Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015
Planning and Development (Development Assessment Panels) Regulations 2015
Environmental Protection Act (EP Act) 1986 and relevant Regulations
Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992
Health (Miscellaneous Provisions) Act 1911 and Regulations

State Government Policies

State Planning Policy 4.1 – State Industrial Buffer Policy

Local Planning Scheme

City of Kwinana, Local Planning Scheme No. 2

Local Policies

Local Planning Policy 5 – Development Contribution Towards Public Art Local Planning Policy 8 – Designing Out Crime Local Planning Policy 11 – Site Requirements and Standards for Development within Industrial Zones.

Consultation:

Public Consultation

The proposed General Industry – Storage Tank is a "P" (Permitted) use under LPS2 and does not require advertising. The proposed Private Utility (pipeline) is an "AA" (Discretionary) use under LPS2, and may require advertising. The pipelines are proposed through several properties including Lot 497 Port Road, which is owned by Fremantle Ports and does not form part of this application. The other properties, being Lot 110 Kwinana Beach Road and Lots 2 and 3 Kwinana Beach Road are owned by DevelopmentWA and Coogee Chemicals Pty Ltd (or its subsidiary) which are all party to this application. In this respect, the application was not advertised to the owners of these properties.

Consultation with other Agencies or Consultants

The application was referred to a number of agencies for their comments, including:

- Department of Mines, Industry Regulation and Safety (DMIRS)
- Department of Water and Environmental Regulation (DWER)
- Main Roads WA (MRWA)
- Fremantle Ports (FP)
- Westport

- Kwinana Industries Council (KIC)
- Dampier Bunbury Pipeline operator (DBP)
- DevelopmentWA

The City has summarised the matters raised in agency responses below.

Department of Mines, Industry Regulation and Safety

The application was referred to DMIRS for comment as it may require a dangerous goods licence and registration of the proposed pipelines. DMIRS advised that UAN solution is not classified as a dangerous good, therefore is not subject to the *Dangerous Goods Safety Act 2004*. An advice note has been included for the proponent to contact DMIRS regarding registration of the new pipeline.

<u>Department of Water and Environmental Regulation</u>

The application was referred to DWER in relation to site contamination, existing vegetation, air quality, a Works Approval and Licencing under the *Environmental Protection Act 1986*. A copy of the advice can be seen in Attachment 7.

The DWER Industry Regulation Branch provided comment as summarised below:

 Works Approval – DWER advises that the proposal does not seem to trigger section 53 of the EP Act, which relates to changes to emissions or discharges from the prescribed premises due to new works at the premises. The Department concurs with the proponent that a licence amendment or a works approval for the proposal is not required, however should be notified in the event that the proposal is modified to enable the implications to be assessed.

The DWER Contaminated Sites branch noted that the subject site is known to be contaminated due to a previous diesel spill in the development area, however had no objections as the proposal is for continued industrial land use and will not result in a change in land use sensitivity. However, the Department considered that significant ground disturbing activities are likely to be required to facilitate the construction of the tank and the underground portions of the pipeline. Given the identified contamination and history of industrial land uses on the subject site an advice note was recommended requiring ground disturbing works be undertaken in accordance with a construction environment management plan. In the event of the identification of known or suspected contamination during the works, the Department is be notified and the contamination managed in accordance with the Department's Contaminated Sites Guidelines. The proponent has been advised of this requirement and has been recommended for inclusion as an advice note.

Main Roads Western Australia

The application was referred to MRWA due to its proximity to Patterson Road and Kwinana Beach Roads which are both under the jurisdiction of MRWA. In addition, the TIS submitted with the application confirms that the proposal would result in approximately 10 additional truck trips per day.

MRWA supported the proposal subject to the proponent making good any damage to the existing verge vegetation within the Kwinana Beach Road reserve. The

proponent has been advised of this requirement and an advice note has been included.

Fremantle Ports

The application was referred to FP due to the proposed pipeline from the Kwinana Bulk Jetty via Lot 497 – Port Installations land. FP confirmed it had no issues with the proposal. It is noted that separate approvals will be required from FP for the portion of the pipeline within the Port Installations land.

Westport

Given the significance of the KIA and its future in relation to Westport, the application was referred to the Westport Taskforce for comment. Westport advised it had no objections to the proposal.

Kwinana Industries Council

The application was referred to KIC as the administrative body of the Kwinana Industrial Area (KIA). KIC noted support of the application.

Dampier to Bunbury Gas Pipeline

The application was referred to DBP due to a pipeline easement to the east of the subject site. DBP did not raise any objections to the proposal.

DevelopmentWA

The application was referred to DevelopmentWA due to the proposed pipeline within the services corridor. DevelopmentWA noted support of the application subject to required development approvals being obtained and the proposed pipeline being located entirely within the existing easement area. It was also noted that the provision of any pipeline within the services corridor located on Lot 110 Kwinana Beach Road is subject to the terms of the easement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019. The proponent has been advised of these comments and an advice note has been included.

Bushfire

The northern portion of the subject site is located within a designated bush fire prone area as per the Department of Fire and Emergency Services (DFES) mapping. It is however noted that the proposed works are located to the south, outside of the designated bushfire prone area, so does not require formal consideration of bushfire risk or Bushfire Attack Level (BAL) assessment as part of the development application. Notwithstanding, a BAL report prepared by WA BAL Services and dated 11 March 2020 was submitted with the application. Based on the vegetation classification on site and surrounding properties, the slope and separation distances between the proposed tank and classified vegetation, the BAL report concluded that a BAL-Low applied to the site.

The BAL report was reviewed by the City's Bushfire consultants who concurred with the findings of the report, and further noted that a BAL assessment is not required as the proposal is outside of the designated

bushfire prone area. No further bushfire consideration or application of bushfire management policy, guidelines or standards are required for the proposal.

Planning Assessment:

Local Planning Scheme

Land Use

The City has considered the proposed development against the land use classifications outlined in LPS2. Hazardous Industry is described under Appendix 4 (Interpretations) of LPS2 as: "an industry which by reason of the processes involved or the method of manufacture, or the nature of the materials used or produced requires isolation from other buildings."

DMIRS confirmed that UAN solution is not classified as a dangerous good and is not subject to the *Dangerous Goods Safety Act 2004*.

The proposal is therefore considered as a 'General Industry' use in the context of LPS2, which is classified as a "P" (Permitted) use, provided it complies with the relevant standards and requirements laid down in LPS2 and all conditions (if any) imposed by the responsible authority in granting planning consent. The City's assessment of the proposal against the relevant development standards of LPS2 is discussed below.

Table 1 - Local Planning Scheme No. 2

| Item | Requirement | Proposal | Compliance | | |
|--------------------------------|------------------------------------|-----------------------------------|------------|--|--|
| 6.8.4 – Plot Ratio | 0.8 Plot Ratio | The plot ratio and | Complies | | |
| and Site Coverage | 65% Site Cover | site coverage of | | | |
| | | the lot is well within | | | |
| | | LPS2 | | | |
| | | requirements. The | | | |
| | | site cover is | | | |
| | | approximately 15% | | | |
| 0.0 5 | _ , ,_ | of the site area. | 0 " | | |
| 6.8.5 – Minimum | Front – 15m | Front – +150m | Complies | | |
| Setbacks from | Side – 6m | (min) | | | |
| Boundaries | Rear – 9m | Side – 13m (min) | | | |
| C O C Annooronoo | Dland into natural | Rear – 12m (min) | Camanliaa | | |
| 6.8.6– Appearance of Buildings | Blend into natural and/or existing | Proposed steel tank to be painted | Complies | | |
| or buildings | development | grey to match with | | | |
| | development | the existing tanks | | | |
| | | on site. Tank | | | |
| | | proposed to the | | | |
| | | rear of the subject | | | |
| | | site. | | | |
| 6.8.7 – | 5% of site | Existing – 5% | Complies | | |
| Landscaping Areas | | | · | | |
| 6.8.8 – Car Parking | Car Parking | Existing – proposal | Complies | | |
| and Crossovers | Spaces to be | does not trigger | | | |

| | · · · · · · · · · · · · · · · · · · · | | <u></u> |
|--|---|--|----------|
| | provided in accordance with Table III of LPS2 | additional car parking. The site will be unmanned. | |
| 6.8.9 – Loading and Unloading | Loading / Unloading areas to be maintained in good order | Existing gantry area, proposed to be extended. | Complies |
| 6.8.10 – Waste Water and Effluent Disposal | Waste water to be managed appropriately to preserve the environment and groundwater | There is an existing Stormwater Management Plan for the site. | Complies |
| 6.8.11 – Recycled Water | Desirability of use of recycled water. | The development does not generate industrial process water. | N/A |
| 6.8.12 – Fencing | A security fence proposed on a front lot boundary shall be setback 1.5 metres from the front lot boundary and landscaping shall be established and maintained between these lines to the satisfaction of Council. | None proposed | N/A |
| 6.8.13 – Materials Used | The facade on the principal frontage shall be constructed of brick, stone, masonry or such other such material approved by Council. | Existing brick office building | Complies |
| 6.8.14 – Private Utility | Utility to be located within either a service corridor or a location that does not compromise future development, does not result in any adverse risk implications and is visually | Portions of the proposed pipeline will be above and below ground, within an existing services corridor and within existing easements. The pipeline will also be on an existing elevated pipe | Complies |

| unobtrusive. | bridge and is not |
|--------------|---------------------|
| | considered to be |
| | visually obtrusive. |

Local Planning Policy 5: Development Contribution towards Public Art (LPP5)

LPP5 requires a contribution towards public art for new developments or major extensions within the General Industry Zone with a development cost in excess of \$2,000,000. The proposal is for an additional storage tank and associated pipeline and works with a development cost of \$10m.

The proponent is seeking an exemption towards the public art contribution and provides the following justification;

- The proposed works will not be accessible to the public;
- Coogee has spent significant amounts of money providing significant landscaping and keeping it in a highly maintained condition.
- Coogee has spent a lot of money on numerous pieces of art which are held at Coogee's main administration and gardens in Kwinana.

Although the proponent's justification does not directly address the provisions of the Policy, City Officers have reviewed the request and provide the following comments;

- LPP5 defines 'Major Extension' as, "those extensions that introduce a new plant or physical infrastructure for a process chain and/or significant increases in throughput and production capacity. While not limited to, it may also refer to replacement and/or addition to administration buildings and/or other supporting facilities or buildings".
- Clause 3.3 of LPP5 provides exemption from public art contribution for development applications relating to refurbishment or upgrade of existing infrastructure.
- The existing tank farm at the Coogee West Terminal consists of seven storage tanks of various sizes, an administration building, storage buildings, pipelines, loading gantry and associated infrastructure. The intent of LPP5 is not to seek contributions towards public art for upgrades and refurbishments in the General Industry Zone where small upgrades or changes to existing processing plants may cost many millions of dollars, with little external impact on the site. In the context of the existing development, the proposed additions are not considered to be a major extension to the existing facility, therefore it is considered that the art contribution can be exempt in this instance.

Local Planning Policy 8: Designing Out Crime (LPP8)

The proposed development is for additions to an existing tank farm. The site contains an existing office building and various industrial type buildings. Vehicular access to the site is obtained from both Kwinana Beach Road and Port Road. Both access points are gated thus restricting public access into the site. The subject site is fenced along all boundaries with limited opportunity for the public to access the site.

It is considered that the development meets the objectives of LPP8.

<u>Local Planning Policy 11: Site requirements and standards for development within</u> Industrial Zones (LPP11)

LPP11 provides clarification for LPS2 provisions and alternative site requirements for when these provisions are proposed to be varied. General objectives and design principles are also included to facilitate quality design outcomes in the industrial area.

The objectives of LPP11 seek to encourage a high standard of development with flexible development controls and facilitate good quality design outcomes for both industrial operators and the wider community. The proposed development is considered to meet the objectives and requirements of LPP11 as follows:

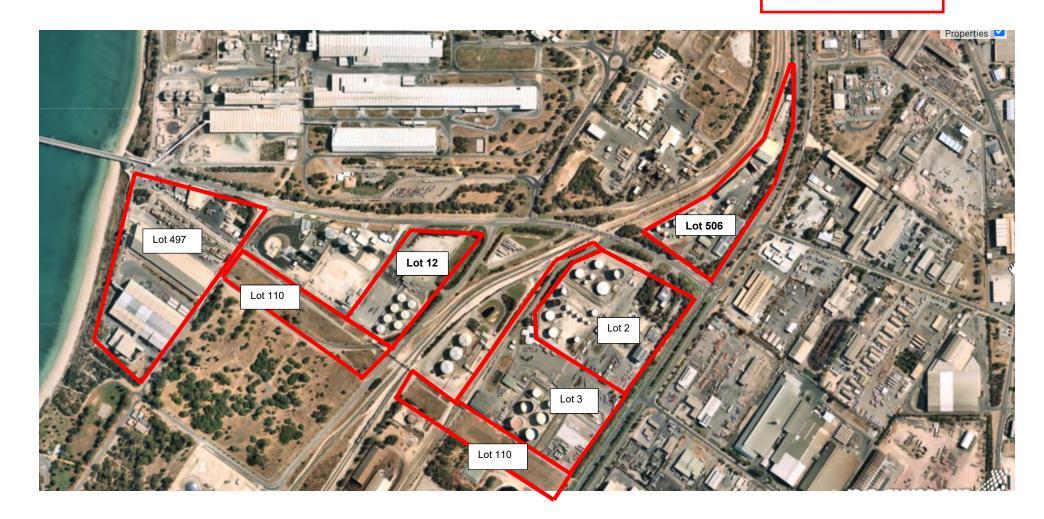
- The subject site is largely unmanned and contains an existing small office building towards the front (off Kwinana Beach Road).
- The proposed tank is located to the rear of the subject site and is sufficiently setback from all boundaries.
- The subject site has significant mature landscaping to the front and secondary street boundaries. The Port Road and Kwinana Beach Road verges are also well landscaped. The landscaping is maintained to a high standard.

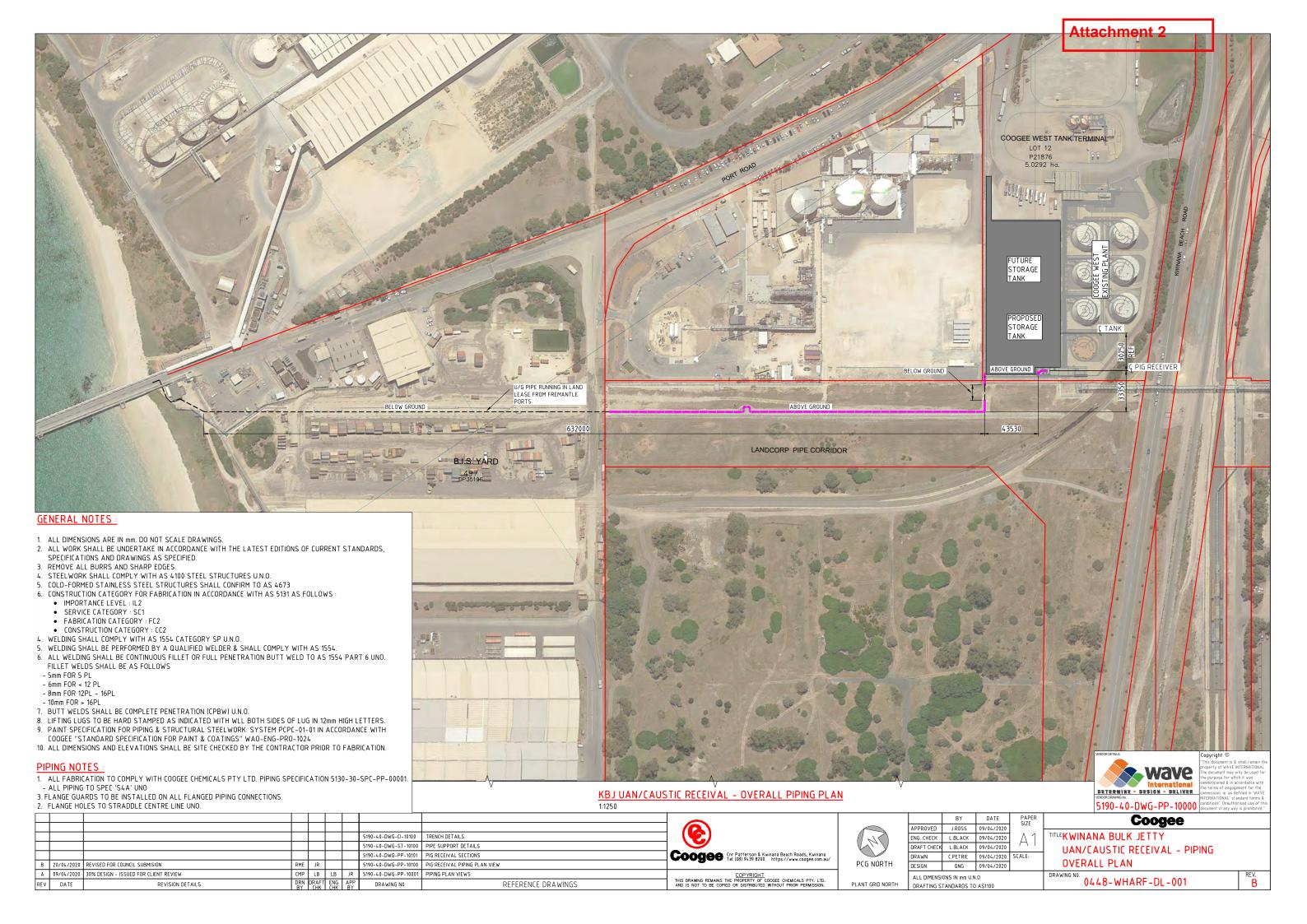
Council Recommendation:

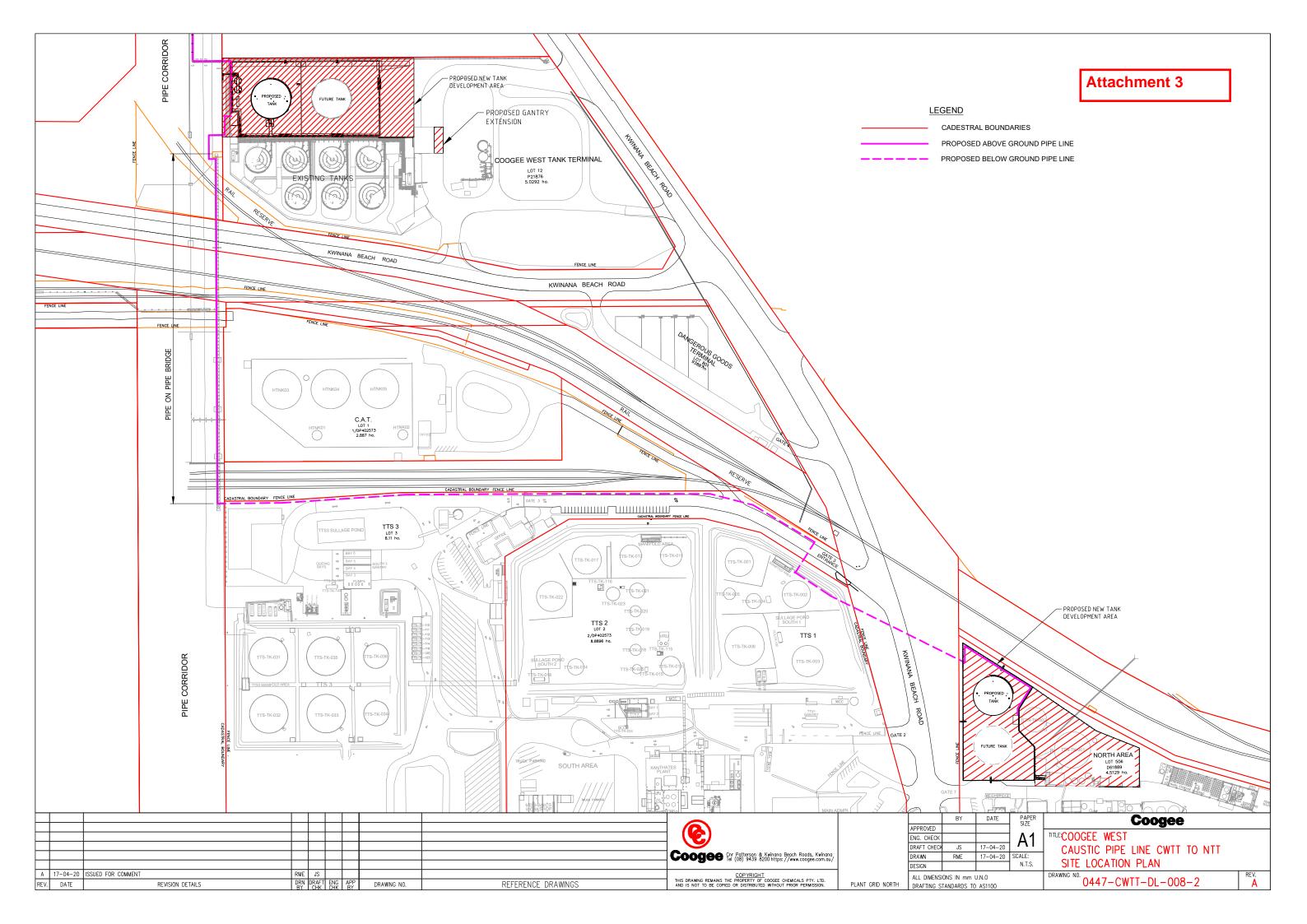
To be included following consideration at the Ordinary Council Meeting of 8 July 2020.

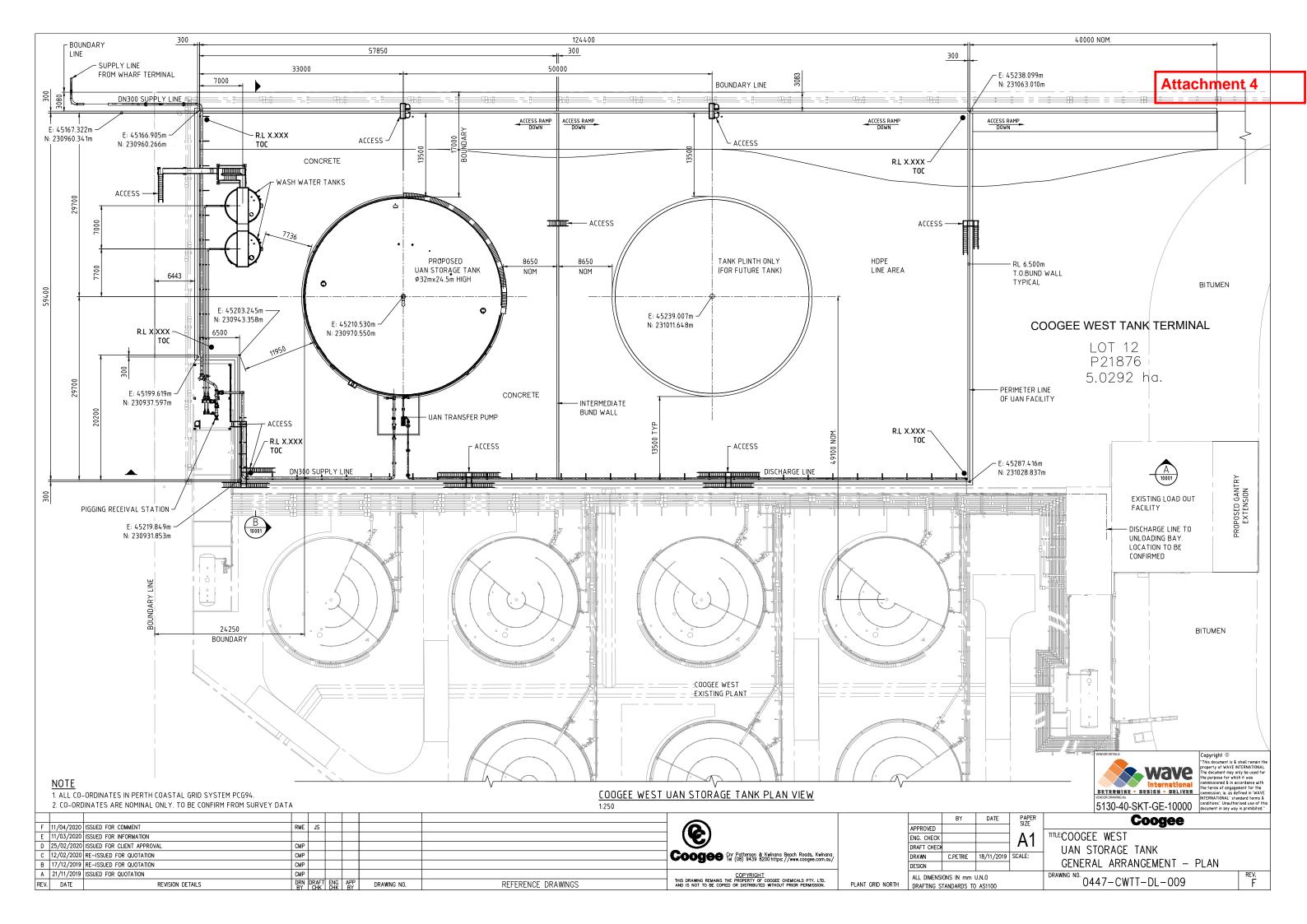
Conclusion:

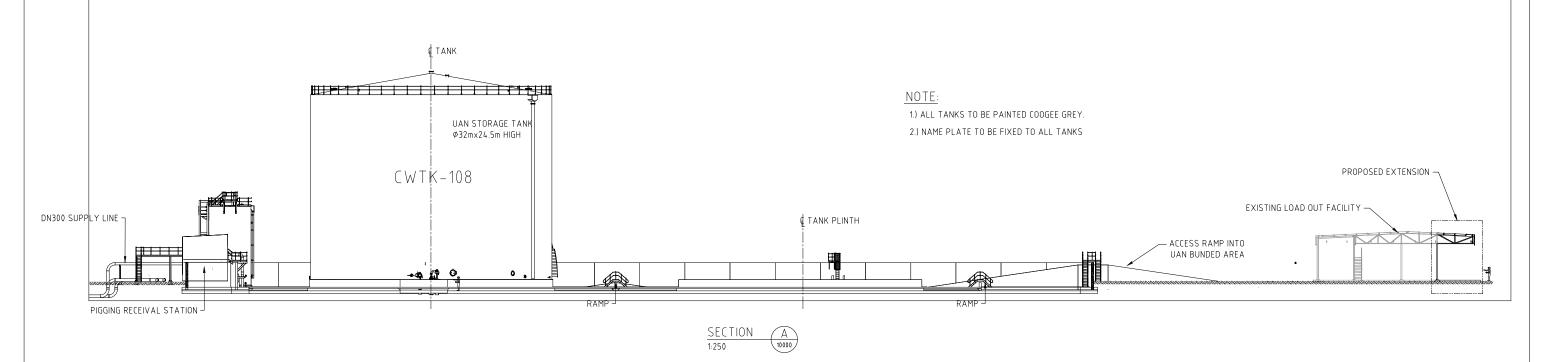
Upon assessment of the development against the objectives and requirements of LPS2, it is considered that the application can be approved subject to conditions. The development generally complies with the requirements of LPS2 and Local Planning Policies and represents effective use of currently underutilised industrial land within the KIA.

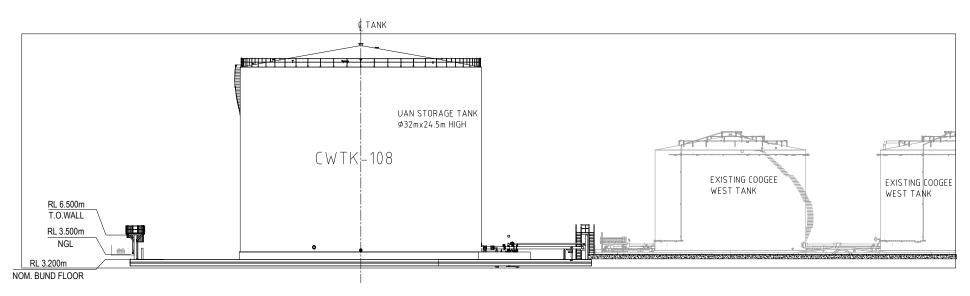










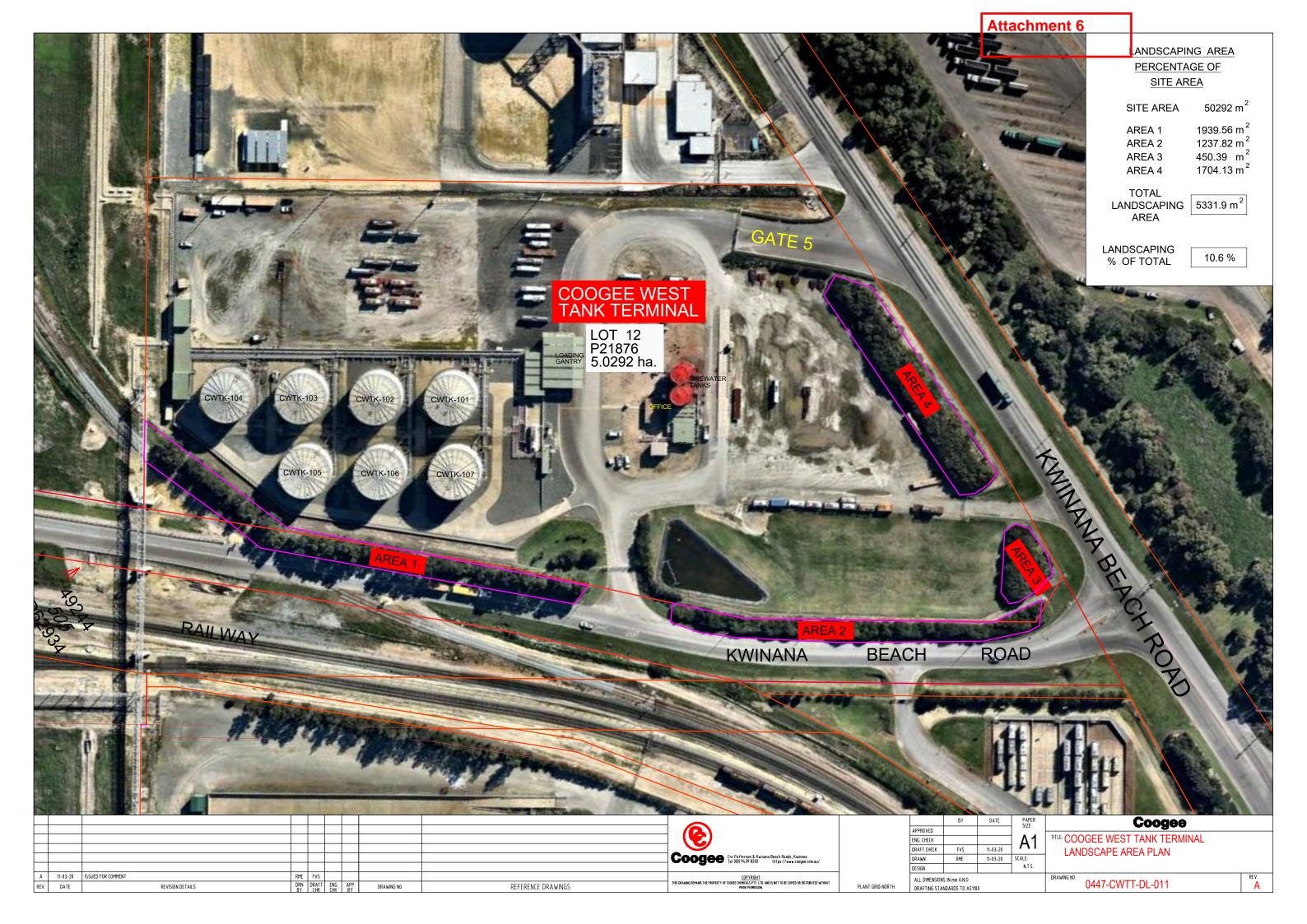




| D | 20/04/2020 | REVISED FOR COUNCIL APPROVAL | RME | JR | | | | | |
|-----|------------|------------------------------|-----------|--------------|--------------|-----------|-------------|--|---|
| С | 09-03-20 | ISSUED FOR COMMENT | RME | JS | | | | Coogee Cnr Patterson & Kwinana Beach Roads, Kwinana Tel (08) 9439 8200 https://www.coogee.com.au/ | ı |
| В | 25/02/2020 | ISSUED FOR CLIENT APPROVAL | CMP | | | | | (a (60) 5155 0250 (https://www.coogce.com.cu/ | ı |
| Α | 21/11/2019 | ISSUED FOR QUOTATION | CMP | | | | | COPYRIGHT | ı |
| REV | . DATE | REVISION DETAILS | DRN BY | DR AF CHK | T ENG CHK | APP BY | DRAWING NO. | REFERENCE DRAWINGS THIS DRAWING REMAINS THE PROPERTY OF COOGEE CHEMICALS PTY, LTD. AND IS NOT TO BE COPIED OR DISTRIBUTED WITHOUT PRIOR PERMISSION. | |

| | | BY | DATE | PAPER SIZE |
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| Coogee |
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| TITLE:COOGEE WEST |
| UAN STORAGE TANK |
| ELEVATION VIEWS |
| DRAWING NO. 0447-CWTT-DL-010 |



Street view of Lot 12 Kwinana Beach Road showing tank terminal in the background



Your ref: DA9599, DA9600
Our ref: RF3779-04, PA033756
Enquiries: Jane Sturgess, Ph 9550 4228

City of Kwinana PO Box 21 Kwinana WA 6966

Attention: Felicitas Dhliwayo

Dear Felicitas

LOTS 12 AND 506 KWINANA BEACH ROAD, KWINANA BEACH - COOGEE CHEMICALS

Thank you for providing the two development applications at Lots 12 and 506 Kwinana Beach Rd, Kwinana Beach for the Department of Water and Environmental Regulation (Department) to consider.

The Department has identified that the proposed expansion and development has the potential for impact on environment values and/or management. In principle the Department does not object to the proposal, however key issues and recommendations are provided below and these matters should be addressed.

Issue

Native vegetation protection

Recommendation

Under section 51C of the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless undertaken under the authority of a clearing permit, or the clearing is subject to an exemption. Exemptions for clearing that are a requirement of written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act. Exemptions for low impact routine land management practices outside of environmentally sensitive areas (ESAs) are contained in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (the Clearing Regulations).

Based on the information provided, no exemption applies to the proposed clearing if it occurs within the road reserve. It is possible the remnant vegetation that occurs in the south of Lot 506 may be exempt in accordance to the Environmental Protection (Clearing of Native Vegetation) Regulations, specifically Regulation 5, Item 1 - Clearing to construct a building. However, the clearing is not exempt until the planning application has been approved.

The Department has not received a clearing permit application relating to this proposal. Application forms are available from https://www.der.wa.gov.au/our-work/clearing-permits/46-clearing-permit-application-forms.

Additional information on how to apply for a clearing permit is available here: https://www.der.wa.gov.au/images/documents/your-environment/native-vegetation/Fact sheets/Fact Sheet - how to apply.pdf

Issue

Part V of the Environmental Protection Act 1986

Recommendation

The Department regulates emissions and discharges from the construction and operation of prescribed premises through a works approval and licensing process, under Part V of the *Environmental Protection Act 1986* (EP Act).

The categories of Prescribed premises are outlined in Schedule 1 of the *Environmental Protection Regulations* 1987.

The EP Act requires a works approval to be obtained before constructing a prescribed premises and makes it an offence to cause an emission or discharge unless a licence or registration is held for the premises.

The provided development application was reviewed in relation to works approval and licence requirements under Part V Division 3 of the EP Act.

Based on the information provided, this proposal does not seem to trigger section 53 of the EP Act, which relates to changes to emissions or discharges from the prescribed premises due to new works at the premises.

The applicant has had discussions with the Department regarding the proposal and informed the department that they would not seek a licence amendment or a works approval for the proposal. The Department does not disagree with this viewpoint.

Issue

Contaminated Sites

Recommendation

Please see attached correspondences to the City dated 8 May 2020.

In the event there are modifications to the proposal that may have implications on aspects of environment and/or water management, the Department should be notified to enable the implications to be assessed.

Should you require any further information on the comments please contact Jane Sturgess on 9550 4228.

Yours sincerely

Brett Dunn

Program Manager – Planning Advice Kwinana Peel Region

11 / 05 / 2020



Your ref: DA9600 Our ref: DMO 3991

Enquiries: Lomas Capelli, Ph 08 9841 0120
Email: Lomas.capelli@dwer.wa.gov.au

Felicitas Dhliwayo Senior Planning Officer City of Kwinana

By email: Felicitas.Dhliwayo@kwinana.wa.gov.au and planning.team@kwinana.wa.gov.au

Dear Ms Dhliwayo

DEVELOPMENT APPLICATION NUMBER DA9600 - COOGEE WEST TERMINAL, LOT 12 KWINANA BEACH

I refer to your email of 28 April 2020 to the Department of Water and Environmental Regulation (the department) regarding an application to the City of Kwinana for proposed industrial development at the above-mentioned site.

As per the requirements under section 58(6)(b) of the *Contaminated Sites Act 2003* (CS Act), advice is required as to the suitability of the land for the proposed works. Land at Lot 12 on Plan 21876 was classified under the CS Act as *contaminated – remediation required* on 20 October 2015, and a memorial (reference number N183927) was placed on the certificate of title.

The classification was based on the presence of hydrocarbons (such as from diesel) in soil and groundwater resulting from an estimated 140,000 L diesel spill in August 2015. Several phases of soil and groundwater remediation have been undertaken since the spill occurred. A remediation and validation report dated January 2016 (the most recent report available to the department) concluded that the site is suitable for continued commercial/industrial purposes, provided groundwater is not abstracted, and that administrative controls are implemented to manage potential risks to intrusive workers.

Development application DA9600 proposes the construction of a 25,000 tonne 'urea ammonium nitrate' storage tank and associated infrastructure, including a pipeline between Lot 12 and the Kwinana Bulk Jetty. Based on available information, the storage tank (and associated infrastructure such as the two 'wash water tanks') is proposed to be located on the portion of Lot 12 where soil and groundwater contamination is present as a result of the 2015 diesel spill.

The underground portion of the pipeline alignment is located on Lot 497 on Deposited Plan 35196, which was classified as *contaminated – remediation required* under the CS Act in August 2016, with the classification details most recently updated in April 2019. The classification is based on the presence of nutrients and metals in soils and groundwater.

Given the application is for continued industrial land use, and will not result in a change in land use sensitivity, the department has no objection to the proposed development of Lot 12 for continued industrial landuse. However, the department considers that significant ground disturbing works are likely to be required to facilitate the construction of the tank and the underground portions of pipeline. Therefore, and given the identified contamination and history of industrial uses at the land subject to the application, the department recommends that the following advice note be placed on any approval granted for the development:

Advice

Due to the history of potentially contaminating activities at the subject land and the presence of soil and groundwater contamination, the Department of Water and Environmental Regulation recommends that all ground disturbing works be undertaken in accordance with a construction environment management plan that includes provisions for 'unexpected finds', waste management, and occupational health and safety. Any assessment and management of contamination required during the development works should be undertaken and reported in accordance with the department's Contaminated Sites Guidelines.

If you have any further queries, please contact Contaminated Sites Officer, Lomas Capelli, on 9841 0120.

Yours sincerely

milde

Andrew Miller

SENIOR MANAGER
CONTAMINATED SITES
Delegated Officer under section 91
of the Contaminated Sites Act 2003

8 May 2020





Enquiries: Thai Truong on (08) 9323 4815

Our Ref: 20/2949 (D20#456053) Your Ref: DA9599 and DA9600

3 June 2020

Chief Executive Officer City of Kwinana PO Box 21 KWINANA WA 6167

Email: customer@kwinana.wa.gov.au

Dear Sir/Madam,

DEVELOPMENT ASSESSMENT PLANNING APPLICATIONS - DA9599 (LOT 506 KWINANA BEACH ROAD, KWINANA) AND DA9600 (LOT 12 KWINANA BEACH ROAD, KWINANA)

In response to your correspondence received on 28 April 2020, Main Roads has no objections subject to the following conditions and advice notes being imposed:

Conditions

 The landowner/ applicant shall make good any damage to the existing verge vegetation within the Kwinana Beach Road reserve.

Advice

 Please submit a "Notice of the Proposal" with design plans for the Caustic Pipe Line where it crosses any Main Roads road reservations (Kwinana Beach Road, Kwinana) to enquiries@mainroads.wa.gov.au attention to "Works by Others" branch to obtain an "In Principal" agreement.

Should the City disagree with or resolve not to include as part of its conditional approval any of the above conditions or advice, Main Roads requests an opportunity to meet and discuss the application further, prior to a final determination being made.

Main Roads requests a copy of the City's final determination on this proposal to be sent to planninginfo@mainroads.wa.gov.au quoting the file reference above.

Yours sincerely

Zeljko Zagorac

Statutory Road Planning Manager

Felicitas Dhliwayo

From: SENYCIA, Patrick <patrick.senycia@dmirs.wa.gov.au>

Sent: Friday, 8 May 2020 5:33 PM

To: Felicitas Dhliwayo

Subject: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana) and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Dear Ms Dhliwayo,

Thank you for your email of 28 April 2020 regarding Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana) and DA9600 (Lot 12 Kwinana Beach Road, Kwinana).

I advise that the storage and handling of dangerous goods is subject to compliance with the *Dangerous Goods Safety Act 2004* and associated regulations such as the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*.

Coogee Chemicals Pty Ltd has made contact with DMIRS regarding its proposed caustic (sodium hydroxide) storage tanks and pipeline and feedback has been provided regarding amendment of the current Licence to Store Dangerous Goods and pipeline registration.

The Urea Ammonium Nitrate (UAN) solution is not subject to the abovementioned legislation as it is not classified as dangerous goods.

Please do not hesitate to contact me should you have any queries.

Regards,

Patrick Senycia | Principal Inspector On Shore Dangerous Goods and Critical Risks Directorate

Department of Mines, Industry Regulation and Safety

Level 2, 1 Adelaide Terrace East Perth WA 6004

Tel: +61 8 9358 8044 | Mob: 0418 914 530

patrick.senycia@dmirs.wa.gov.au | www.dmirs.wa.gov.au

From: Mace, Justyna < Justyna.Mace@westport.wa.gov.au>

Sent: Monday, 4 May 2020 10:03 AM

To: Felicitas Dhliwayo

Cc: westportreferrals; Valencia, Lina

Subject: RE: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Hi Felicitas

Thanks, we reviewed the two applications and have the following comments:

| Application No | Lot address | Westport Comment |
|----------------|----------------------------------|--|
| DA9599 | Lot 506 Kwinana Beach Rd Kwinana | Westport does not object as long as there is no encroachment into the rail corridor prior to, during and post construction |
| DA9600 | Lot 12 Kwinana Beach RD Kwinana | No issues identified |

Kind Regards, Justyna Mace Program Delivery Manager | Westport Office

469 Wellington Street, Perth WA 6000 Tel: (08) 6000 0000 | Fax: (08) 6551 6492

Email: Justyna.Mace@westport.wa.gov.au | Web: https://www.mysaytransport.wa.gov.au/westport





From: Ellen Sherman < Ellen.Sherman@developmentwa.com.au>

Sent: Monday, 4 May 2020 2:06 PM

To: Felicitas Dhliwayo

Subject: RE: Development Assessment Planning Applications - DA9599 (Lot 506 Kwinana Beach Road, Kwinana and DA9600 (Lot 12 Kwinana Beach

Road, Kwinana)

Hi Felicitas

I confirm DevelopmentWA, as the owner of the adjoining Lots 108 & 110 on Deposited Plan 400167, does not have any objection to the proposed development on Lot 12 on DP 21867 so long as the proximity of the tanks to the lot boundary do not impede on any future development approvals for the adjoining portion of Lot 108.

DevelopmentWA does not have any objection to, or comments on, the proposed development on Lot 506 on DP 61889.

The provision of any pipeline within the service corridor located on Lot 110 on DP 400167 is subject to the terms of the easement between DevelopmentWA and Terminals West Pty Ltd (a subsidiary of Coogee Chemicals Pty Ltd) dated 18 December 2019, and this includes the prior written consent of DevelopmentWA and the proposed pipeline being located entirely within the existing easement area.

Coogee have not yet provided DevelopmentWA with any detailed plans showing the exact location of the proposed new pipe and the alignment in the DAP is only indicative. The easement also requires Coogee to obtain all relevant Local and Public Authority approvals. I note in the DAP that the pipe is identified as being above ground. This will only be acceptable to DevelopmentWA if DMIRS confirm it is acceptable and the sections that cross the access tracks throughout the service corridor must be below ground. In addition the location of the proposed pipeline must not adversely affect any of the existing service corridor users and their associated pipelines/infrastructure.

Should you require any further information please do not hesitate to contact me.

Regards

Ellen Sherman

Leasing Manager

18 Reports - Civic Leadership

Nil

19 Notices of motions of which previous notice has been given

Nil

20 Notices of motions for consideration at the following meeting if given during the meeting

Nil

21 Late and urgent Business

Nil

22 Reports of Elected Members

22.1 Councillor Wendy Cooper

Councillor Wendy Cooper reported that she has fulfilled all those duties required of her.

22.2 Councillor Merv Kearney

Councillor Merv Kearney reported that he has fulfilled all those duties required of him.

22.3 Councillor Sandra Lee

Councillor Sandra Lee reported that she has fulfilled all those duties required of her.

22.4 Councillor Matthew Rowse

Councillor Matthew Rowse reported that he attended Conciliation Advisory Group 'meet and greet' with the City's Internal RAP Group in the Council Lounge on the 29 June 2020.

22.5 Councillor S Wood

Councillor Sherilyn Wood reported that she has fulfilled all those duties required of her.

23 Answers to questions which were taken on notice

Nil

24 Mayoral Announcements

The Mayor advised that media events she had participated in were:

- Video recap of OCM 24th June
- Plastic Free July promotion
- Water Corp recognition of Kwinana as a Waterwise council for 10 years. Donation by Watercorp of a dedicated seat situated in Rhodes Park, Calista

The Mayor provided the following updates regarding the WA Local Government Association: State Council Meeting – matters for noting:

- WALGA's response to COVID-19 pandemic
- Endorsement of the draft State and Local Government Agreement for Public Libraries
- Emerging issue relating to the Work Health & Safety Bill 2019 (introduced into WA Parliament in November) which includes a range of matters arising for national harmonisation of workplace health and safety legislation which will impact on all industries in the WA jurisdiction. The concern is that the WHS Bill will introduce industrial manslaughter provisions that differ from the approach taken or proposed by other jurisdictions. The Bill places the responsibility for compliance and liability with 'persons conducting a business or undertaking" (PCBU) and a category of individuals referred to as 'officers'. Within the local government context this will include but not be limited to CEOs, Directors, Managers, Coordinators and Supervisors.

The recommendation passed by State Council was that the Standing Committee on Legislation investigate the drafting and interpretation of offences in the context of the WA Criminal Code, and consider whether the standard imposed (in sections 30B & 31) is appropriate for an officer punishable by imprisonment.

Further, that the Standing Committee on Legislation ensure there is adequate time following the proclamation of the Bill for all industries in WA to transition to the new, harmonised workplace safety and health provisions.

The Mayor advised on the Community Meetings she had participated in were:

- Gilmore College Board Meeting
- Kwinana Early Years Board Meeting
- Meeting with District Police Superintendent, Andy Greatwood
 New initiative to commence regular quarterly meeting and work closely to explore any partnership opportunities with the WA Police
- Meeting with Orelia resident
 Re: nuisance/odour complaint
- Meeting with Parmelia Resident Re: various issues (on road parking, street light replacements)

The Mayor provided an updated on Rotary Club of Kwinana Inc changeover meeting.

Congratulations to incoming President John Iriks for 2020/2021 and well done to outgoing President, Wendy Cooper who has had to juggle her council duties as well as her Rotary President work for the past 12 months. Congratulations to Mr Brian McCullum for being awarded the prestigious Paul Harris Fellow Award for his services to Rotary Kwinana over many years.

25 Confidential items

Nil

26 Close of meeting

The Mayor declared the meeting closed at 5.46pm.