



Government of **Western Australia**
Department of **Planning**

Your ref:
Our ref: 853/4/34/2
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TRANSMITTED BY E-MAIL ONLY

Mr Ray Hooper
Chief Executive Officer
Shire of York
PO Box 22
York WA 6302

Attention: Jacky Jurmann, Manager Planning Services

Dear Mr Hooper

Landfill Proposal at Alluwuna: Lot 4869 Great Southern Highway York

As requested by Council's Manager of Planning Services, the Department of Planning is writing to clarify a recent discussion regarding a proposed landfill site in the Shire.

Site Suitability

While it is understood that the proponent of the Alluwuna facility intends to progress environmental approvals prior to contemplating development approval, initial consideration of the overall suitability of the site for the proposed land use would have been helpful.

As you will appreciate, a development of this scale and nature is significant and raises issues that extend beyond the environmental acceptability of the proposal, such as the existing planning framework, adequacy of transport networks and amenity.

In this case, the Shire's local planning strategy is relevant, as are the requirements of the Shire's Scheme. For example, in the local planning strategy, the Alluwuna site is located within the Western Slopes Precinct (Conservation) (2b) where the relevant objective would be to: *"preserve and enhance the environment and natural resources"* (paragraph 2.4.4). Within this Precinct, the Strategy requires *"any development to have regard for protection of views, particularly those from Great Southern Highway"*. (paragraph 2.4.4).

Interpretation of Town Planning Scheme No.2 (Scheme 2)

Discussions indicate that a proposal to establish a landfill at Alluwuna under Scheme 2 could be assessed under the definition of 'industry - noxious'; by which a planning application would be treated as a 'SA' application in the General Agriculture zone.

Scheme 2 defines 'Industry' as:

"the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following:

- a) the winning, processing or treatment of minerals;*
- b) the making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing, or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;*
- c) the generation of electricity or the production of gas;*
- d) the manufacture of edible goods,*

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include:

- (i) the carrying out of agriculture,*
- (ii) on-site work on buildings or land,*
- (iii) in the case of edible goods the preparation of food for retail sale from the premises."*

Scheme 2 defines 'Industry - noxious' as:

"an industry which is subject to licensing as "Prescribed Premises" under the Environmental Protection Act, 1986 (as amended)."

The Department's interpretation is that although a landfill facility would meet the definition of 'noxious' in that it requires licensing under the Environmental Protection Act, a landfill does not meet the base definition of industry outlined above. This means that the definition 'industry - noxious' would not apply, and a landfill would be a 'use not listed' in the Scheme.

Clause 3.2.4 of the Scheme outlines requirements for Council's exercise of discretion where uses are not listed in the Scheme, which require Council to determine that a proposal is consistent with the relevant zone objectives and purpose.

The site of the Alluwuna proposal is zoned General Agriculture, and objective 4.15.1 (b) is most relevant to Council's consideration, which is *"To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment."*

In considering a landfill proposal as a use not listed, Council would need to be satisfied that the use is consistent with the zone objectives, as well as addressing the general matters to which Council is required to have due regard in clause 7.5 of the Scheme.

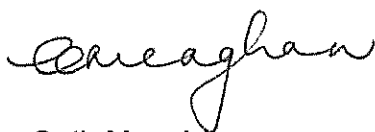
Amendment 50 to Scheme 2

Following advertising and public submissions of this Amendment, Council resolved to remove the proposed definitions and provisions relating to waste facilities, thus recommending a planning approach where the issue of landfill remains uncertain and undefined in the Scheme.

Having now received the amendment and being in the process of assessing it prior to making a recommendation to the Western Australian Planning Commission, the Department will recommend an approach for waste facilities in the Shire that improves the current situation, with a view to achieving consistency for a similar amendment that is pending in the Shire of Toodyay.

I hope this clarifies the matters discussed last week. If you would like to discuss further, please contact me on 6551 9362.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cath Meaghan', written in a cursive style.

Cath Meaghan
Director, Wheatbelt

27 May 2013