



Enquiries: Mr C Bulstrode  
Our Ref: 801-14-1-2 Pt- 1 Vol 5

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Appeals Convenor  
C/- Minister for the Environment  
13<sup>th</sup> Floor  
Allendale Square  
77 St George's Terrace  
PERTH WA 6000

Dear Sir

### **APPEAL AGAINST THE ENVIRONMENTAL PROTECTION AUTHORITY'S ASSESSMENT OF THE PEEL REGION SCHEME**

Pursuant to section 100 of the *Environmental Protection Act 1986*, the Western Australian Planning Commission wishes to lodge an appeal against some aspects of the Environmental Protection Authority's EPA assessment of the Peel Region Scheme (EPA Bulletin 994).

The Commission has no objections to the majority of EPA's advice and recommendations made in relation to the Peel Region Scheme. However, some of the EPA's recommendations are of concern to the Commission. To ensure that these concerns are addressed, the Commission has taken this opportunity to lodge an appeal with the Minister for the Environment.

Listed below are recommendations made in EPA Bulletin 994 that the Commission has concerns with and therefore are appealing against. The specific grounds for appeal for each of the recommendations are also provided below.

#### **Rapid Transit Corridor**

*"The proposed reservation for the Rapid Transit Route is environmentally acceptable, however, the EPA advises that the alignment should be reviewed in an effort to provide a wider environmental buffer to Paganoni Swamp. It is recommended that the assessment of vegetation, wetlands, noise and vibration be deferred so that the EPA can assess these issues in more detail at a later stage of the planning process."*

(EPA Bulletin 994: Other Advice – Deferred Factors)

The concern the Commission has with the above advice and recommendation is that although the EPA advises that the alignment is environmentally acceptable, it considers that the alignment should be reviewed in an effort to provide a wider environmental buffer to Paganoni Swamp. The Commission contends that the review of the alignment for the rapid



transit route is now not practical or appropriate, given the environmental, planning and detailed design work that has already been undertaken for the rapid transit route.

The environmental and planning work that has been undertaken on the rapid transit route includes the following:

- i) The formal environmental assessment by the EPA of the section of the rapid transit route within the Metropolitan Region Scheme.
- ii) The existing reservation of the rapid transit route in the Metropolitan Region Scheme for the purpose of Railways;
- iii) The alignment of the rapid transit route through the proposed Centennial Park residential estate has been determined following extensive consultation with the relevant agencies and was reflected in the Outline Development Plan (ODP) for Centennial Park. The ODP was approved by City of Mandurah and the Commission in 1997 (Attachment A). More recently, a revised ODP for Centennial Park has been prepared and advertised for public comment; but the rapid transit route alignment is not proposed to be changed in the revised ODP (Attachment B). Also subdivision applications for land are soon to be lodged with the Commission, which will reflect the established alignment of the rapid transit route; and
- iv) The Department of Transport has undertaken considerable detailed design work for the proposed rapid transit route. The proposed Railways reservation in the Peel Region Scheme reflects the design and land requirement plans prepared for the rapid transit route by the Department of Transport.

Given the above, it is considered that to review the alignment in an effort to provide a wider buffer for Paganoni Swamp at this late stage of the planning process would be inappropriate and has not been justified within the EPA bulletin. Accordingly, it is recommended that the Minister for the Environment not agree to this specific recommendation that the alignment be reviewed in an effort to provide a wider environmental buffer to Paganoni Swamp. Notwithstanding this, it is agreed that the noise and vibration issues associated with the rapid transit route can be dealt with at the detailed design and construction stage.

#### **Point Morfitt**

*"It is recommended that assessment of the potential impacts on remnant vegetation associated with the proposed urban development be deferred until the subdivision stage to allow the EPA the opportunity to assess the detailed design of the subdivision to ensure that significant vegetation is adequately protected within the subdivision design."*

(EPA Bulletin 994: Other Advice - Deferred Factors)

In EPA's advice on the proposal to develop land for residential purposes at Point Morfitt, it is acknowledged by EPA that the subject land has been zoned for residential purposes in the

City Of Mandurah Town Planning Scheme No.3. However, the City of Mandurah and the Commission have approved an ODP for Point Morfitt land in August 1998 and July 1999 respectively, following consideration of the advice provided by the Department of Environmental Protection. Given that an ODP has been approved for the land, it is considered that there would have to be very strong environmental grounds for requiring the protection of additional areas of remnant bushland on the subject land to what is already proposed to be reserved as Regional Open Space in the Peel Region Scheme and included as local open space in the approved ODP. This justification has not been provided in the EPA bulletin. In addition, this recommendation is contrary to the intent of the *Planning Legislation Amendment Act 1996* which set out to provide certainty to subsequent planning decisions by dealing with the significant environmental issues at the scheme level. Accordingly, it is recommended that the Minister for the Environment not agree with the EPA's recommendation that vegetation be treated as a Deferred Factor at the subdivision approval stage.

### Areas of Environmental Significance

*"All bushland in good condition and conservation category wetland vegetation on the eastern side of the Swan Coastal Plain has high conservation value. Any proposals that may impact on remnant vegetation in this area should be referred to the EPA for consideration unless appropriately managed through recommended conditions or the System 6 Update has been completed."*

(EPA Bulletin 994: Other Advice – Areas of Environmental Significance)

The Commission is concerned that there would be some difficulties in the implementation of the above recommendation. Firstly, there is no clear description given as to what is the "eastern side" of the Swan Coastal Plain. And, secondly, there currently is no reasonably accurate and recent remnant vegetation mapping for this section of the Swan Coastal Plain that identifies areas of remnant vegetation in good condition. Without such vegetation mapping this could create some difficulties determining which proposals including rural subdivision applications, should be referred to the EPA. Without such remnant vegetation mapping, all applications for land containing reasonably sized areas of vegetation would have to be referred to the EPA. *Yes or referred on policy.*

While the Commission does not strongly oppose the above advice of EPA, it is recommended that the Minister for the Environment note that there is a need for the Department of Environmental Protection to prepare suitable remnant vegetation mapping for the region as this issue has been recognized for some years. *Agree - rezoning this is the issue.*

### Mosquito Management Programmes

*"The EPA recommends that a mosquito management programme be prepared by proponents prior to rezoning or subdividing land for residential purposes. (It is acknowledged that it would be appropriate for a mosquito management programme to be prepared as part of amendment to town planning schemes rather than the Peel Region Scheme)."*

(EPA Bulletin 994: Other Advice – Mosquitoes)

The Commission considers that it is more appropriate that the management of mosquitoes be addressed strategically at the regional or sub-regional level, rather than principally as part of specific rezoning or subdivision proposals. For this reason a working group comprising representatives from MfP, DEP, Health Department, local government, Water and Rivers Commission and the development industry been established by the WAPC to review and report on a range of mosquito management measures. Accordingly, it is recommended that the outcome of the working group's deliberations be considered and taken into account to deal with mosquito management at a strategic level rather than dealing with it on an ad hoc basis for particular rezonings and individual subdivisions.

In addition, it is questionable whether mosquito management is an issue that should be considered by the EPA given that it is an issue dealing with public health.

### **Solid Waste Management**

*"The EPA recommends that a regional waste management and resource recovery strategy be prepared to the satisfaction of the DEP. The Peel Region Scheme should be amended to reflect the objectives of the regional waste management and resource recovery strategy particularly in relation to the identification of regional waste management facilities."*

(EPA Bulletin 994: Other Advice – Solid Waste Management)

The concerns with the above recommendation are, firstly, it could be interpreted as meaning that the Commission should prepare the regional waste management and resource recovery strategy. The Commission is of the view that the preparation of such a strategy would be principally the responsibility of the local governments within the Peel region with the assistance of the Division of Waste Management from the DEP. Notwithstanding this, the Commission has recommended, as Recommendation No.18 of the *Report on Submissions for the Peel Region Scheme* (WAPC, 2000), that the Commission and the Ministry for Planning, where possible, provide assistance to the local governments and relevant State government agencies to identify a suitable site for a regional waste disposal facility.

Secondly, the recommendation suggests that the Region Scheme should be amended, particularly in relation to the identification of regional waste management facilities. However, it is contended that such regional waste facilities do not necessarily need to be identified in the Region Scheme. For example, there are regional waste facilities in the Metropolitan Region that are not reserved or identified in the Metropolitan Region Scheme.

Given the above, the Commission recommends that the Minister for the Environment provides further clarification to the recommendation of EPA by stating that it is not the Commission's responsibility to prepare the regional waste management and resource recovery strategy and that the Region Scheme will not necessarily need to be amended to reflect such a strategy.

### **Audit of Environmental Conditions**

*"The Commission shall monitor and report annually on compliance with the implementation of the environmental conditions. Where required enforcement action should be undertaken to ensure compliance is achieved."*

(EPA Bulletin 994: Other Advice – Solid Waste Management)

The Commission is concerned with the requirements to report annually on the compliance with the environmental conditions. It is acknowledged that under section 48H of the *Environmental Protection Act 1986*, the Commission, being the authority responsible for the administration of the Region Scheme, will have a role in monitoring the implementation of the environmental conditions. However, depending on the level of the detail required for the monitoring report, to report annually could potentially be onerous and not justified.

Accordingly, it is recommended that the Minister for the Environment recognize that the legislative requirements in the Act are sufficient in relation to the monitoring of the implementation of the conditions.

### **Recommended Environmental Conditions**

The Commission has no objections to the matters covered by the recommended environmental conditions for the Peel Region Scheme. However, the Commission takes this opportunity to point out that the environmental conditions should ultimately be written in accordance with the style and format agreed to by the Commission and the EPA for environmental conditions relating to town planning schemes. In particular, the environmental conditions should be brief, with associated specifications contained in appendices providing further information and details required for the compliance of the conditions. This matter can be addressed during the consultation between the Minister for Planning and the Minister for the Environment for the setting of the conditions for the Region Scheme.

If you require any further information regarding the Commission's appeal, please contact Mr Cameron Bulstrode of the Ministry for Planning on 9581 4471. Also enclosed is \$10.00 for the appeal fee.

Yours faithfully



SIMON HOLTHOUSE  
CHAIRMAN

3 October 2000

Att: