



POLICY

RESTRICTIVE COVENANTS

Policy Objective:

To provide a consistent approach when assessing development applications for lots where restrictive covenants are known to exist.

Policy:

1. Enforcement

The City of Mandurah will not undertake the enforcement of restrictive covenants unless the restrictive covenants have been noted on the title by and for the benefit of the City.

The enforcement of restrictive covenants is a matter of contract and is distinct from the City of Mandurah's statutory duty in regard to the issuing of planning approvals under the Town Planning Scheme No 3 and building licenses under Part XV of the Local Government (Miscellaneous Provisions) Act 1960.

Note: The owners of land who claim the benefit of a covenant have the right to enforce it. It is open to them to take further action for an injunction if they think they are sufficiently affected.

2. Consideration of Restrictive Covenants

Officers assessing applications shall have regard to restrictive covenants that are known to exist in relation to the Town Planning Scheme 3 and relevant Local Planning Policies provided that the restrictive covenants relate to matter or issues that fall within a local authority's jurisdiction and that the Council has the power to control. In the instance of any conflict, the Town Planning Scheme 3 or Local Planning Policies shall prevail.

3. Developers Requests

The City of Mandurah will not approve requests from landowners or developers or their representatives to carry out any functions associated with the policing of restrictive covenants including:

- notifying the developer when building licence applications are received; and
- delaying or withholding a building licence approval on the basis that a developer's approval for a proposal should first be obtained; and
- Assessment of any applications against restrictive covenants and/or developer's guidelines and ensuring compliance with the same.

Procedure: N/A

Originating Section: Planning and Projects

Reviewer: Town Planner

Approved: Minute: G.26/3/07
20th March 2007

Relevant Legislation:

Planning and Development Act 2005
Local Government (Miscellaneous Provisions) Act
1960

Delegated Authority:

Other References:



Reference: SD-03

POLICY

ACID SULFATE SOILS

Policy Objective:

To ensure that the development of land containing Acid Sulfate Soils is planned and managed to avoid potential adverse effects on the natural and built environment (including infrastructure).

Policy:

1. The City of Mandurah recognises and acknowledges the Western Australian (WAPC) Planning Bulletin No 64 as the appropriate means of dealing with Acid Sulfate Soils.
2. The WAPC Planning Bulletin No 64 does not recognise Outline Development Plans as a planning process requiring Acid Sulfate Soils consideration. Outline Development Plans are a significant planning tool within the City of Mandurah, which should require Acid Sulfate Soil assessment within high risk or moderate to low risk areas.
3. For the purpose of this policy, Outline Development Plans will be treated as Scheme Amendments in terms of the management of Acid Sulfate Soils and the requirements from WAPC Planning Bulletin No 64 – Acid Sulfate Soils.

Procedure: TBC

Originating Section: Planning and Projects

Reviewer: Town Planner

Approved: Minute: G.26/3/07
20th March 2007

Relevant Legislation:

Planning and Development Act 2005

Delegated Authority:

Other References:

WAPC Planning Bulletin No. 64 – Acid Sulphate Soils

Policy Manual

Title: Car Parking Cash in Lieu

OBJECTIVE

To provide for a formula where the cash in lieu provisions for car parking have been provided for in any planning application, outside of the City Centre zone.

POLICY STATEMENT

Cash in lieu for car parking may be provided for, not including the City Centre zone of Town Planning Scheme No 3, at the discretion of Council, where Council:

- (a) has developed or has plans to develop a Council car parking reserve in close proximity to the development paying the cash in lieu;
- (b) has exceptionally good reasons exist for wanting the development to proceed;
- (c) considers a much needed facility or service to the locality will be provided.
- (d) the development will act as a catalyst for other new development to occur in a locality thereby encouraging redevelopment and upgrading of an area.

The cash in lieu payment is discretionary and Council may decide to require full provision of car parking in accordance with Scheme standards if, in its opinion, the amenity of the area may in any way be adversely affected.

Should a cash in lieu payment be considered appropriate, such payment shall be calculated in accordance with the following:

- A construction component cost assessed at the time of development being charged plus 10%.
- A land value component be charged plus 10%, based on the following:-
 $(29\text{m}^2) \times (\text{land value per m}^2) \times (\text{number of parking bays required}).$

Relevant Legislation: Town Planning and Development Act 1928 (Town Planning Scheme No 3)

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- The land value per square metre is to be determined from a valuation by a licensed Valuer appointed by Council, with all costs incurred in obtaining the valuation will be borne by the applicant proposing a cash in lieu contribution of car parking.
- The cash in lieu payments collected by Council are to be paid into the appropriate Reserve Fund.

The cash in lieu payment is to be made prior to a building licence being issued

Relevant Legislation: Town Planning and Development Act 1928 (Town Planning Scheme No 3)

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:



POLICY

COASTAL MANAGEMENT

Policy Objective:

Council recognises that the City's beach and coastal areas are highly regarded by both the local community and visitors as two of Mandurah's most valued assets. The objective of the Coastal Management Policy is to:

1. Protect, conserve and enhance coastal reserves and marine environments;
2. To encourage orderly and balanced development on and adjacent to the coast, consistent with the protection of coastal reserves; and
3. Facilitate public access to and use of the coast, consistent with the protection of coastal resources.

Policy:

1. This policy will apply to an area parallel to and not less than 500 metres from the high water mark of the Indian Ocean, including existing reserves and private land within and abutting the 'Coastal Management Area' along the entire length of the coastline within the City of Mandurah, including the Peel Inlet.
2. When making a decision relative to development within the Coastal Management Area, Council will take into account policies, studies (including a cultural map) and advice as detailed in the Procedure Guide, including the recommendations of the Coastal Management Plan [endorsed June 2004] the Mandurah Coastcare Co-ordinating Committee.
3. When making decisions relative to development within the Coastal Management Area, Council will take into account the following matters;
 - a. Protection of features of natural, scientific and/or cultural significance;
 - b. The adequacy of foreshore development setbacks and the foreshore reserve width, having regard for potential sea level rise, the stability of both the shoreline and sand dune areas, visual amenity, recreational requirement and 'sense of place';
 - c. The need for conservation of biodiversity (flora and fauna) within the Coastal Management Area and protection of foreshore vegetation; and fauna, including the retention and enhancement of green corridors;
 - d. The appropriate height and form of buildings within or adjacent to the foreshore reserve and the impact of such on the coastal landscape and/or cultural character of the area;
 - e. Protection and/or enhancement of views within the Coastal Management Area. Particular attention should be given to coastal areas visible from the major vantage points, such as ridgelines, scenic routes and pathways, public recreation areas and coastal waters;
 - f. Utilisation of landscaping to minimise the impact of development and to maintain, where possible, the coastal landscape character in the foreshore reserve and adjacent areas;
 - g. Ensuring that developments on the foreshore and adjacent coastal reserves are in harmony with the coastal landscape through appropriate siting, design and use of materials;
 - h. Provision of access to the coast through the exclusion of residential lots immediately adjacent to foreshore reserves;

- i. The need for conservation of biodiversity (flora and fauna) within the Coastal Management Area and protection of foreshore vegetation; and fauna, including the retention and enhancement of green corridors;
 - j. Provisions for fire control and management;
4. Council will apply this policy when considering the requirements for its planning and management of coastal areas, and when imposing conditions on planning applications for sites adjacent to the coast.
5. When planning approval [including re-zoning] is sought within the Coastal Management Area and the proposal has an impact, or is likely to have an impact, on the Coastal Management Area, through increased recreational use or otherwise, Council may require the applicant to prepare and implement a Foreshore Management Plan (FMP) in respect of the subject land. The FMP will be prepared in accordance with the guidelines set out in the Coastal Management Plan, including:
- a. Resource Planning and Management
 - b. Coastal Protection
 - c. Marine and Terrestrial Environment
 - d. Cultural Environment
 - e. Recreation and Tourism
 - f. Coastal Settlement
- and
- g. Inclusion of an implementation framework that sets out a staging schedule, budgeting requirement [including contingency], responsibility and independent audit; and
 - h. Acknowledgement that the developer is responsible for the implementation of the plan and ongoing management of the foreshore area for a period of not less than three (3) years following practical completion of works. Completion date to be determined by the City following the receipt of an independent audit of the works confirming the completion of works in accordance with the approved FMP.
6. When planning approval [including re-zoning] is sought within the Coastal Management Area and the proposal is not immediately adjacent to the coastal reserve but the proposal has an impact, or is likely to have an impact, on the Coastal Management Area, through increased recreational use or otherwise, Council may require the applicant to contribute towards the management, maintenance or upgrading of the Coastal Management Area in accordance with guidelines and recommendations of the Coastal Management Plan.

Procedure: Coastal Management

Originating Section: Eco-Services

Reviewer: Coordinator Eco-Services

Approved: Minute: G.26/3/07

20th March 2007

Relevant Legislation:

- Planning and Development Act, 2005
- WAPC Policy – DC 6.1 Country Coastal Planning Policy
- Statement of Planning Policy 2.6 – State Coastal Planning Policy, 2003 + Amendment No. 1, 2006 [*subsection 5.3 building heights limits*]
- Town Planning Scheme No. 3 (City of Mandurah) including 7/11/1/G (cultural mapping)
- Environmental Protection (Clearing of Native Vegetation) Regulations 2004
- Environment Protection and Biodiversity Conservation Act, 1999

Delegated Authority:

Other References: City of Mandurah Coastal Management Plan, 2004

Policy Manual

Title: Waterways Management

OBJECTIVE

To provide for the process for the establishment, approval, construction and ongoing maintenance for artificial waterways within the City of Mandurah.

POLICY STATEMENT

1. Preamble

A prerequisite for the construction of artificial waterways and canal estates is the existence of low lying land near water. This introduces a wide range of technical and community issues not normally associated with dry land subdivision, particularly in regard to the environment.

It is essential that all relevant factors be known prior to the time that decisions are made in respect to such development. All options for development including the no development option must be considered.

This policy puts in place a process for the approval, construction and ongoing management of artificial waterways and canal estates within the City of Mandurah. It can be used as a guide for similar development elsewhere in Western Australia.

2. Preliminary Approval Process

2.1 Preliminary Review

- (a) Proponents of artificial waterways and canal estate developments shall submit the following information to Council for preliminary review:

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- Evidence of control over the land involved or affected directly by the project either by title or enforceable contract to purchase.
 - A site plan showing the land, its contours and its local setting.
 - An aerial photograph showing the same area.
 - A basic concept plan showing the approximate shape of proposed waterways, connecting channels, subdivision, land use and development, including groynes, bridges, breakwaters and other definable structures.
 - Basic hydraulics, environmental and ecological studies showing the perceived impact of the development on natural and physical features of the site and its environs.
- (b) Council will advise the Western Australian Planning Commission of its determination which shall be limited to:
- Rejection, in which case the proposal cannot proceed by normal process, or
 - Provisional acceptance, in which case the proposal will be allowed to proceed to Feasibility Review.

2.2 Feasibility Review

2.2.1 Council Sub-Committee

The Feasibility Review will be managed by a Council Sub-Committee. Membership of the Sub-Committee shall be limited to:

- City of Mandurah Councillor - Chairman
- City of Mandurah - Development Services
- City of Mandurah – Works and Services
- The Proponent

In addition, representatives from Department for Planning and Infrastructure (Planning and Transport), Department of Environmental Protection, Water and Rivers Commission and other relevant agencies will be invited to attend meetings.

2.2.2 Environmental Considerations

An outcome of the Feasibility Review will be a statement of environmental considerations to be taken into account during possible subsequent investigations. The list of environmental considerations shall include but not necessarily limited to:

- Water quality and its management involving natural or artificial flushing or water exchange.
- Coastal estuarine or river environments and the prospect for impacts upon those environments.
- Wetlands and other habitats for flora and fauna.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- Prospective impact upon ground water reserves and such other matters as salt water intrusion and draw-down.
- Waste disposal with particular regard to disposal of waste water (including sewage) and contaminated surface water run-off.

If, at the time of determining whether or not the project should be assessed the Department of Environmental Protection is aware of a fundamental objection to the proposal, then its representative should advise the Sub-committee of that objection. In such circumstances, the Sub-committee should not proceed with the feasibility study unless action can be taken to overcome that objection.

In the absence of any overriding objection to the project, the Department of Environmental Protection representative would be expected to advise the Sub-committee as to the likelihood of whether or not the proposal would require assessment pursuant to Part IV of the Environmental Protection Act and, if it did, the probable level of the assessment (eg Consultative Environmental Review (CER), Public Environmental Review (PER), or Environmental Review and Management Program (ERMP)).

2.2.3 Coastal Engineering Considerations

An outcome of the Feasibility Review will be a statement of coastal engineering considerations to be taken into account during possible subsequent investigations. The list of coastal engineering considerations shall include but not necessarily limited to:

- Littoral drift and sand by-passing (dredging) requirements and their consequences for subsequent management.
- Exposure to damage by tide, flood and storm surge levels.
- Adverse effects upon coastal regimes.
- Potential insufficiency of natural or artificial flushing to maintain canal water quality.
- Stormwater Management.
- Maintenance costs, sources of funding for monitoring and maintenance of canal waterways by the developer for a predetermined maintenance period, and the prospect of reaching agreement regarding ongoing funding arrangements once any developer obligations cease.

During this phase of the review the basic concept plan shall be refined to reflect:

- Canal design and stability including walls, banks and edge treatment revetments.
- Entrance design and stability.
- Navigation requirements.
- Tide and storm surge levels.
- Mooring design specifications.
- Impact on coastal processes.
- Suitability of existing soils for subsequent residential construction.
- Bridges.
- Road hierarchy.
- Flushing and marine creature safe escape ways.
- Breakwaters and groynes.

Relevant Legislation: Town Planning and Development Act 1928;
 Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- Other relevant matters particular to each case.

2.2.4 Planning Considerations

An outcome of the Feasibility Review will be a statement of planning considerations to be taken into account during possible subsequent investigation. The list of planning considerations shall include but not necessarily limited to:

- Philosophy and approach.
- The planning context.
- Market assessment.
- Development option.
- Economic evaluation of preferred development option.
- Development and statutory planning implications.

2.2.5 Deed of Agreement

It will be a requirement of any approval of an artificial waterway or canal project that a Deed of Agreement be entered into by the proponent with Council to ensure that:

- The development proceeds in a timely manner.
- It is effective.
- A reasonable period of maintenance is undertaken by the proponent before the development becomes a public responsibility.

The Deed of Agreement shall cover the following major issues:

- Commitment to seek and obtain planning approval for the project and thereafter to carry out development within a predetermined period;
- An undertaking to transfer the tenure of the ‘water way’ area under the ownership or control of the developer to the Department of Land Administration at no cost to the Department of Land Administration. It is intended to subsequently remove the land from the operation of the *Transfer of Land Act* and deem it Crown land under the *Land Act*. This Land will then be offered to Council by way of a fifty year lease for the purpose of ‘waterway’ with a nominal rental being put in place;
- Construction, monitoring and maintenance of specific canal and channel works;
- Monitoring and management of water quality;
- Identification of funding sources for the construction and maintenance work referred to above;

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- The proponent shall not cease to be a party to the agreement until at least five years after the date of practical completion of the project. Should there be a recurring problem then this period will be extended at the discretion of Council year by year;
- A Deed of Agreement shall apply to each stage of development of a canals project;
- Arrangements regarding the source of revenue for ongoing maintenance following the expiration of the proponent's responsibility;
- Bank guarantee against default of the above commitments and to cover any defects, which might become evident during the period of the developers obligation.

2.2.6 Report

The proponent shall be responsible for preparing a report setting out the development proposal in detail taking into account the environmental considerations, coastal engineering considerations and ongoing management. The report shall include a list of recommendations and conditions regarding the proposal and be submitted to Council for consideration and determination.

2.2.7 Determination

Council will advise the Western Australian Planning Commission of its determination of the Feasibility Review, such determination being limited to:

- Rejection in which case the proposal cannot proceed by normal process, or
- Conditional acceptance in which case assessment of the proposal can be initiated in accordance with the formal approval process set by the Western Australian Planning Commission.

It is to be noted that at this stage Council would advise the Western Australian Planning Commission whether or not, in general planning and local engineering terms, the proposal is acceptable and the circumstances under which it would be prepared to proceed with an amendment to Town Planning Scheme No 3 when formally requested to do so.

3 *Formal Approval Process*

If the Feasibility Review results in Council's conditional preparedness to initiate a rezoning of the land, and the proponent elects to proceed, then the proposal for development can be formally assessed in accordance with the Western Australian Planning Commission's policy DC 1.8 – Canal Estates and Other Artificial Waterway Developments (February 1999).

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

On completion of documentation and assessment by relevant personnel, the Sub- Committee shall be responsible for preparing a report setting out the recommended approval conditions for the development for Council determination. Council will advise the Western Australian Planning Commission of its determination.

4 *Construction*

Once conditions of approval to subdivide for a development which includes an artificial waterway or a canal estate have been set by the Western Australian Planning Commission and the work proceeds, construction shall be in accordance with the subdivision approval and the City of Mandurah's subdivision specifications.

During the construction period, the Waterways Management Technical Advisory Committee shall be responsible for monitoring the overall project in accordance with the previously approved documentation and for finally clearing the subdivision.

5 *Maintenance*

During the maintenance periods for the development, twelve months for any land subdivision works and five years for the waterways (or as negotiated), the Waterways Management Technical Advisory Committee shall retain responsibility for ensuring that the proponent completes the overall project in accordance with the previously approved documentation. Infrastructure Services will retain responsibility for technical matters associated with the construction works.

6 *Waterways Management*

6.1 Management Groups

Following handover Core Management Groups (CMGs) have the responsibility for providing recommendations to Council on canal management matters in accordance with this policy. The CMG's are Advisory Committees that operate under the provisions of the *Local Government Act (1995)* and report direct to Council. These Groups will comprise the following representatives:

City of Mandurah	3 representatives
Individual Canal Ratepayers Associations	3 representatives
The proponent for the development	1 representative

Relevant Legislation: Town Planning and Development Act 1928;
 Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

Representatives from the Department for Planning and Infrastructure (Transport), Water and Rivers Commission and the Department of Environmental Protection will provide specialist advice as and when required.

6.2 Limits of Responsibilities

The City of Mandurah, as the Waterways Manager, is responsible for management, monitoring and maintenance works within the boundaries of the water bodies of the canals and entrance channel. This includes maintaining the canals and entrance channel seabeds to an adequate depth for navigation, maintaining canal banks for revetment wall stability and ensuring an acceptable water quality standard exists. The developer is responsible for these works for the first five years of the project in accordance with the Deed of Agreement.

The Waterways Manager is not responsible for the maintenance of revetment walls. Canal revetment walls are located within the property boundary and it is each individual owners responsibility for the upkeep and repairs to these walls. Following handover, the City of Mandurah is responsible for maintenance to walls under it's control in reserves and public access ways and funding for this work is provided from General Revenue and not from the Canal Management Fund.

Marine structures such as jetties and mooring buoys require a Jetty License Approval from the Department for Planning and Infrastructure (Transport) and it is the Licensee's responsibility for maintaining such structures. A planning application is also required for jetty structures within the canal waterway and within cadastral boundaries of canal lots.

Navigational aids and the policing of speed limits is under the jurisdiction of the Department for Planning and Infrastructure (Transport).

6.3 Funding

After handover, canal management is jointly funded by the City of Mandurah and canal property owners. The City of Mandurah contributes from General Revenue and private property owners are levied by a Specified Area Rate in accordance with the provisions of the *Local Government Act (1995)*.

The City's contributions can vary from one canal estate to another. They are calculated as a percentage of Council controlled waterfront to total waterfront and other factors such as allowances for public boat ramps.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

6.4 Hydrographic Surveys

Hydrographic surveys shall be carried out on an annual basis, or as necessary to monitor sand/silt movements within the canals and in the entrance channel. Data recorded shall be used as the basis for ongoing dredging and/or other maintenance works. The canals and the entrance channel shall be maintained at design profiles.

6.5 Water Quality

Water quality shall be maintained to comply with approved Guidelines for recreational use or ambient water quality.

The City of Mandurah's Environmental Health Services Section will monitor at nominated locations on a monthly basis. Samples taken will be analysed for the following parameters:

- Thermotolerant Coliforms
- Faecal Streptococci
- Salmonella
- Dissolved oxygen

- Turbidity
- Salinity
- Conductivity
- Temperature
- Nitrate and nitrite
- Phosphorous

These parameters coincide with sampling carried out by the Water and Rivers Commission in the Peel/Harvey Estuary System. Recorded data shall provide the basis for ongoing public awareness and education programmes in relation to the use of fertilisers and stormwater retention.

Litter and debris shall be collected at least every two weeks between September and April and after inclement weather during winter months as part of the ongoing management commitment.

6.6 Marine Structures

All marine structures require the approval of the Department for Planning and Infrastructure (Transport) and where necessary a jetty license issued in accordance with the provisions of the *Jetties Act (1926)*. A planning approval from the City of Mandurah is also required for jetties within canal waterways and within cadastral boundaries of canal lots.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

Jetties shall comply with standards set for each canal estate or artificial waterway. The Waterways Manager will only support marine structures being attached to canal revetment walls when engineering advice shows that horizontal wall loading is negligible.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

Policy Manual

Title: Bushland Conservation Policy

OBJECTIVE

The City of Mandurah recognises the environmental, social, cultural, educational and economic values of bushland within the City of Mandurah and encourages the conservation and management of local bushland within the City.

The Bushland Conservation Policy is a guiding document which provides a basis for Council to make balanced decisions about potential conflicting land uses. The policy is flexible in that it recognises the need to use public open space for a variety of purposes. The policy is also intended to assist in the identification of Mandurah's natural bushland assets.

The policy defines bushland as: *Land that contains remnant native vegetation, or is of a similar structure and includes plant species found in natural bushland.*

POLICY STATEMENT

The following strategies will be implemented as resources and funding allows for the fulfilment of this policy.

1. Identification and Assessment of Local Bushland

A Concept Vegetation Plan has been developed for the City of Mandurah that provides detailed mapping of bushland to compliment this policy. It provides a basis for decision making for management of bushland within the City of Mandurah.

2. Protection of Bushland through Planning and Development Process

- Requires flora surveys to be carried out by developers at rezoning and structure plan levels to identify the values of bushland on land to be rezoned or subdivided for further development;

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- Council shall ensure that site clearing is minimised and the retention of bushland is maximised on land to be developed, and that consideration is given to density trade-offs to increase public open space;
- The development of public open space within residential subdivisions containing bushland will be approached in a manner that ensures a significant amount of bushland is retained in public open space areas wherever possible. This should be done at the concept planning phase;
- Remnant vegetation should be fenced and managed in a manner that allows for re-vegetation to occur and provide defined and managed access;
- When not considered dangerous, dead trees should be left in-situ as wildlife habitat;
- Minimal or no clearing is permitted within the vicinity of the Peel-Harvey Estuary or its associated rivers;
- Minimal or no clearing is permitted in the vicinity of existing wetlands;
- Clearing proposals and development shall comply with the policy provisions in relation to the retention of existing vegetation in the Western Australian Planning Commission's Statement of Planning Policy No 2 – Peel-Harvey Coastal Plain Catchment. (Refer Appendix 2.2.2)

3. Management of Council Controlled Bushland

Council will support the ongoing maintenance and management of Council controlled bushland to ensure that the values of bushland areas are not degraded in the long term. This will occur through the development of management plans and re-skilling staff.

Management plans for land to be ceded to Council or bushland controlled by Council should consider the management of weeds, fire, access and minimising disturbance as priorities.

4. Purchase of Local Land

Council will establish an environmental reserve fund. This will be used for the purchase of local bushland where appropriate, for conservation purposes. Bushland will be selected and prioritised using the following conditions for assessment.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

Priority criteria for bushland purchase:

- example of regional vegetation type that is threatened through a lack of management or future development;
- a site that supports a population of declared rare flora;
- vegetation in good condition or better, although threatened vegetation types may be significant even if in a poor condition;
- bushland preferred as future public open space, for conservation purposes;
- wetlands of local significance or in a relatively pristine state.

General criteria for bushland purchase:

- suitable for passive recreation or has the potential for scientific or educational study;
- having cultural heritage values of local significance
- regular shape is desirable unless the area functions as a significant corridor linking other remnant vegetation;
- an area cleared or vegetated with the potential to act as a corridor between two areas of bushland;
- an area of vegetation capable of regeneration;
- bushland which has a reasonable degree of local community recognition (using the UWA bushland study as a guide);
- bushland with the ability to act as a buffer between suburbs, industrial and residential land uses, or residential areas and major transport routes.

5. Linkages

- Council will endeavour to ensure that structure planning and subdivision design ensures that vegetation corridors are provided to link areas of bushland where possible;
- In planning for landscaping and revegetation programs, priority will be given to projects which re-establish links between bushland areas.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

6. Community Education

Council will encourage the development of educational programs to highlight the values of local bushland to the community, to avoid activities that lead to bushland degradation and encourage increased community management of bushland areas.

7. Species Protection

In some areas the tuart and banksia woodland found in Mandurah contains flora and fauna needing special protection. All native species are protected. However, some species also have the status of 'In Need of Special Protection' or 'Rare and Endangered' and are more vulnerable on land fragmented by or zoned for subdivision.

Council requires a management plan for the protection and/or relocation of flora or fauna "In need of 'Special Protection' and 'Rare and Endangered' categories, where bushland containing such fauna is rezoned for any level of development.

For existing land zoned for future development, Council will recommend to the Western Australian Planning Commission that existing zonings have conditions placed on land containing 'In Need of Special Protection' or 'Rare and Endangered' species. This will require a management and/or relocation plan to be prepared to the satisfaction to the Department of Conservation and Land Management and Council.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

Policy Manual

Title: Trading in Public Places (*Relating to Part XII of the City of Mandurah Consolidated Local Laws*)

1. OBJECTIVES

- 1.1 To allow for the operation of trading activities in such a manner that they do not conflict with or prejudice the City's permanent retail and service base, or other normal functions of the City.
- 1.2 To ensure that the operation of the trading activities are appropriate for the area and do not cause any nuisance to the surrounding area.

2. EXEMPTIONS

- 2.1 Any trading which falls within any of the following categories is exempt from obtaining a licence pursuant to section 12.3 of the Local Law:
 - 2.1.1 Equipment Hire business when operating from a recreation hire site approved by the City (through its Recreation Services Section).
 - 2.1.2 Buskers and raffle sales from a site approved by the City (through its Community Services Section).
 - 2.1.3 Swap meets/markets/fetes/fairs and the like, run by an organisation which can demonstrate that its objectives are charitable, benevolent, religious, cultural, educational, recreational or sporting (no approval is required in accordance with this Policy NB: Separate approvals are required for those events on Council land).
 - 2.1.4 Any trading associated with an event run or sponsored by the City of Mandurah.
 - 2.1.5 Trading, which in the opinion of the City, is directly associated with a sporting event/competition recognised by the City.
 - 2.1.6 Existing legal businesses placing stalls on the public land adjacent to their premises provided adequate pedestrian access and safety is maintained to the satisfaction of the City.
 - 2.1.7 The selling or offering for sale of newspapers.

3. APPLICATION FOR A LICENCE

- 3.1 An application for a trader's licence shall:
 - 3.1.1 Be in the form prescribed by the City;

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- 3.1.2 State the full name and address of the applicant;
- 3.1.3 Specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their full names and addresses;
- 3.1.4 Specify the location or locations in which the applicant proposes to trade;
- 3.1.5 Specify the period of time for which the licence is sought, together with the proposed days and hours of trade;
- 3.1.6 Specify the proposed goods or services which will be traded;
- 3.1.7 Be accompanied by an accurate plan and description of any proposed stall, structure or vehicle which may be used by the applicant in trading;
- 3.1.8 Be forwarded to the Chief Executive Officer together with the prescribed fee;
- 3.1.9 Be signed by a Justice of the Peace if the trading involves door to door sales to residential properties;
- 3.1.10 Be accompanied by a copy of the public liability insurance to the value of \$10,000,000 which indemnifies the City;
- 3.1.11 Be accompanied by the initial registration fee with the balance to be paid on receipt of licence or earlier; and
- 3.1.12 Provide any additional information, deemed to be necessary by the City.

4. RELEVANT CONSIDERATIONS IN DETERMINING APPLICATION FOR LICENCE

- 4.1 In determining an application for a licence, the City may have regard to:
 - 4.1.1 Any relevant policies of the City;
 - 4.1.2 The desirability of the proposed activity;
 - 4.1.3 The location of the proposed activity with respect to pedestrian and vehicular traffic and their safety and the safety of customers of the trader and the trader themselves;
 - 4.1.4 The appropriateness of the trading in that particular area with respect to the character and function of that area.
 - 4.1.5 Whether the goods, services, wares or merchandise proposed to be traded are currently provided by existing and permanent shops or other outlets;
 - 4.1.6 The design and appearance of any stall which is proposed to be used in associated with the trading;

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- 4.1.7 The principles set out in Competition Principles Agreement;
- 4.1.8 Any comments of a public authority made under section 12.4.3 of the City of Mandurah Local Laws Part XII;
- 4.1.9 Any comments made with respect to public notice under section 12.4.2 of the City of Mandurah Consolidated Local Laws Part XII and any other matters that the City considers to be relevant in the circumstances of the case.

5. AREAS WHERE TRADING IS NOT PERMITTED

- 5.1 All trading activities (including Mobile Food Traders) are not permitted to trade from the Eastern Foreshore area (refer Map).
- 5.2 Itinerant food vendors are not permitted to trade within the following areas due to public safety concerns:
 - a) The Mandurah CBD area – that is the area bounded by Mandurah Terrace, Pinjarra Road, Gibson Street and Sutton Street (refer Map);
 - b) The Mandurah Ocean Marina Precinct (refer Map); and
 - c) On the following roads:
 - Allnutt Street (between Park Road and Fremantle Road)
 - Mandurah By-Pass
 - Fremantle Road
 - Gordon Road
 - Lakes Road
 - Leslie Street
 - Mandurah Terrace
 - Murdoch Drive
 - Old Coast Road
 - Pinjarra Road

6. TRADING IN FOOD

- 6.1 In assessing an application for a licence to trade in food, the City will consider the suitability of the proposed site for that purpose, having regard to health requirements and standards or any other matter considered necessary for the satisfactory operation of the activity.
- 6.2 The place of trading should have a sealed or graded surface, and should be adequately drained.
- 6.3 The place of trading should be accessible to service vehicles if appropriate.
- 6.4 Where trading involves the preparation and cooking of food for sale to the public, the City will have particular regard to, and may impose conditions relating to:
 - 6.4.1 The form and structure of the stall;
 - 6.4.2 The provisions to be made for the storage of cooked and uncooked food; and

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

6.4.3 The storage and disposal of waste materials, for both operators and patrons.

6.5 The City will require that a food trading activity have access to a supply of potable water, and/or to a sewer for the disposal of waste water. Where such conditions are imposed, arrangements for compliance will be the responsibility of the operator, and shall be to the satisfaction of the City.

7. SIGNAGE RELATED TO TRADING

7.1 Unless specifically approved by the City of Mandurah, via a separate Town Planning of Sign Licence Approval, all signage associated to a trader shall be limited to the following:

7.1.1 Any proposed signage on the stall;

7.1.2 In addition to any signage on the stall, a maximum of two (2) possible signs may be permitted;

7.1.3 Any signs must be located within 200m of the trading activity approved by the City of Mandurah;

7.1.4 Each sign should not exceed 750mm in height or 450mm in overall width;

7.1.5 The signs are only to be erected during the approved trading hours;

7.1.6 The signs must be to a standard, satisfactory to the City of Mandurah.

8. CONDITIONS OF LICENCE

8.1 If the City approves an application for a licence subject to conditions, those conditions may include:

8.1.1 The place, the part of the district, or the thoroughfare to which the licence applies;

8.1.2 The days and hours during which a licence holder may trade;

8.1.3 The number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in trading;

8.1.4 The goods or services in respect of which a licence holder may trade;

8.1.5 The number of persons and the names of persons permitted to trade;

8.1.6 The requirement for personal attendance at the place of trading by the licence holder and the nomination of assistants, nominees or substitutes for the licence holder;

8.1.7 Whether and under what terms the licence is transferable;

8.1.8 Any prohibitions or restrictions concerning:

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- 8.1.8.1 The causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the licence holder;
 - 8.1.8.2 The use of amplifiers, sound equipment and sound instruments;
 - 8.1.8.3 The use of signs; and
 - 8.1.8.4 The use of and lighting apparatus or device;
 - 8.1.9 The manner in which the licence holder's name and other details of a valid licence are to be displayed;
 - 8.1.10 The care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - 8.1.11 The vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - 8.1.12 The moving on from a location within a reasonable time of the last purchase having been made;
 - 8.1.13 The acquisition by the trader of public liability insurance;
 - 8.1.14 The period for which the licence is valid;
 - 8.1.15 The designation of any place or places where trading is wholly or from time to time prohibited by the Council;
 - 8.1.16 Any other conditions that the Council considers to be relevant in the circumstances.
- 8.2 For Trading in Public Places applications incorporating Mobile Food Traders, the following standard conditions should generally apply to the approval:
- 8.2.1 Operation to be conducted in accordance with the provisions of the City of Mandurah Consolidated Local Laws Part XII - Trading in Public Places and Policy No 1 Relating to Part XII of the City of Mandurah Consolidated Local Laws – Trading in Public Places.
 - 8.2.2 Internal vehicle fit-out to comply with the requirements of the Health (Food Hygiene) Regulations 1993 and the City of Mandurah Health Local Laws 1996.
 - 8.2.3 Licensee to display the licence certificate in a conspicuous place on the vehicle at all times whilst trading and produce such licence to any Council Officer upon demand.
 - 8.2.4 Licensee shall not cause or make any outcry, noise or disturbance, which is likely to be a nuisance or cause annoyance to any person in that vicinity.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

- 8.2.5 Licensee not to trade within 300 metres of schools between the hours and 8.00am and 9.00am and 3.00pm and 3.45pm, except during school holidays, weekends and public holidays.
- 8.2.6 Licensee not to trade within the following areas due to public safety concerns:
- a. The Mandurah CBD area – that is the area bounded by Mandurah Terrace, Pinjarra Road, Gibson Street and Sutton Street (refer Map);
 - b. The Mandurah Ocean Marina Precinct (refer Map); and
 - c. On the following roads:
 - Allnutt Street (between Park Road and Fremantle Road)
 - Mandurah By-Pass
 - Fremantle Road
 - Gordon Road
 - Lakes Road
 - Leslie Street
 - Mandurah Terrace
 - Murdoch Drive
 - Old Coast Road
 - Pinjarra Road
 - d. Eastern Foreshore.
- 8.3 The City may vary the conditions of a licence, and the licence holder shall comply with those conditions as varied.
9. **GROUND ON WHICH AN APPLICATION MAY BE REFUSED**
- 9.1 The City may refuse to approve an application for a licence on any one or more of the following grounds:
- 9.1.1 That the applicant has committed a breach of any provision of the Local Laws or of any written law relevant to the activity in respect of which the licence is sought;
 - 9.1.2 That the application is not considered a suitable person to hold a permit;
 - 9.1.2.1 That the applicant is an insolvent under administration within the meaning of the Corporations Law;
 - 9.1.2.2 Trading is prohibited in the proposed location under this policy;
 - 9.1.2.3 The trading may potentially result in the traffic and pedestrian safety of the area being adversely affected;
 - 9.1.2.4 The trading will not be in keeping with the surrounding land uses; or

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

9.1.2.5 Any other ground that the City considers to be relevant in the circumstances.

10. TRANSFER OF LICENCE

10.1 An application for the transfer of a valid licence is to:

10.1.1 Be made in writing;

10.1.2 Be signed by the licence holder and the proposed transferee of the licence;

10.1.3 Provide such information as the City may require to enable the application to be determined; and

10.1.4 Be forwarded to the Chief Executive Officer together with the prescribed fee imposed and determined by the City under and in accordance with section 6.16 to 6.19 of the Local Government Act 1995.

11. CONDUCT OF TRADERS

11.1 A trader while shall:

11.1.1 Display her or his licence to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the licence with her or him while trading;

11.1.2 Not display a licence unless it is a valid licence;

11.1.3 Produce to an authorised person his or her licence immediately upon being required to do so by that authorised person;

11.1.4 When selling goods by weight, carry and use for the purpose, scales tested and certified in accordance with the provisions of the Weights and Measures Act 1915.

11.1.5 Not deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

11.1.6 Not act in an offensive manner;

11.1.7 Not use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of the stall, vehicle or structure are increased beyond those specified in the licence;

11.1.8 Not carry on trading from a public place unless there is adequate parking for customers' vehicles reasonably close to the place of trading; and

11.1.9 Comply with any obligations which may be specified in this policy.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:

12. USE OF PUBLIC LAND

- 12.1 Nothing in this policy implies that Council will approve the use of public land under the care and control of the City for use for commercial trading activities.
- 12.2 Any proposals to utilise public land for commercial trading activities must be separately considered by the Council.

Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:



TRADING IN PUBLIC PLACES: POLICY MAP



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Relevant Legislation: Town Planning and Development Act 1928;
Local Government Act 1995

Council Adoption Reference: Minute G.23/12/01, 12 December 2001

Reviewed:



Reference:SD-11

POLICY

Response to Appeals To the State Administrative Tribunal

Policy Objective:

The objective of this policy is to clarify the role, responsibility and accountability of the Council and City Officers in respect to decisions it makes which are the subject of an appeal.

Policy:

In respect to town planning responses to the State Administrative Tribunal (SAT) the following shall apply:-

- 1.1 Where a Council decision is the same or essentially the same as an officer's recommendation, or corrects or improves the content of an officer's recommendation, then the responsible officer or other appropriate officer nominated by the Director Sustainable Development or the Manager of Planning and Projects, shall provide a written response to an Appeal on behalf of the Council or attend a mediation or tribunal hearing as an expert witness to represent the Council's position.
- 1.2 Elected Members attending mediation sessions do so on a voluntary basis as community members and as observers.
- 1.3 Where a decision of the Council is the subject of an appeal to the SAT and that decision is contrary to the recommendation of a City officer then, in the interests of the Council and City officers:-
 - 1.3.1 Council will be represented by a private consultant or a person appointed by the Director Sustainable Development or Manager Planning and Projects, in conjunction with the City's Legal and Compliance section, to represent the City at the SAT hearing.
 - 1.3.2 In such cases, officers will represent the City at the mediation sessions, as far as practicable, with Elected Members being able to attend on a voluntary basis as observers.
 - 1.3.3 In the event of City officers being subpoenaed, Council acknowledges that officers will be required to give evidence at a SAT hearing in support of the officer's recommendation, acknowledging that the evidence given may be contrary to the Council decision the subject of the appeal.

Procedure:

Originating Section: Sustainable Development

Reviewer: Director Sustainable Development

Approved: G.24/11/06 21 November 2006

Relevant Legislation:

Planning and Development Act 2005

Local Government Act

SAT Act 2004

Other References:



Reference: SD-12

POLICY

DESIGNING OUT CRIME

Policy Objective:

The City of Mandurah is committed to minimising the incidence of crime and the fear of crime in our community through its community, planning and design processes.

Policy:

The Council will:

1. Incorporate principles set out in the Designing Out Crime Planning Guidelines (June 2006 prepared by the Western Australian Planning Commission) for Crime Prevention through Environmental Design into all public realm design, maintenance and decision making processes.
2. Encourage Community Awareness/Education Programme on crime prevention in consultation with the West Australian Police Service, Safer WA and all other agencies dealing with community safety and security issues.

Procedure:

Originating Section: Planning and Projects

Reviewer: Manager Planning and Projects

Approved: PCDS.27/4/07 3 April 2007

Relevant Legislation: Town Planning Scheme No. 3; and Local Government Act

Delegated Authority: N/A

Other References: : Designing Out Crime Planning Guidelines (June 2006 prepared by the Western Australian Planning Commission)



POLICY

ILLEGAL CLEARING

Policy Objective:

To discourage the illegal clearing of vegetation from private and/or public land;

Encourage public participation in the prevention of damage to vegetation (trees and bushland);

Establish the criteria for action to be taken in relation to illegal clearing on public and/or private land.

Policy:

1. Council will provide clear, accurate and consistent advice through correspondence and an ongoing education and awareness program to its community and contractors on the requirements for planning approval for the removal and/or trimming of trees or vegetation in accordance with Section 6.5.2 of the City's Town Planning Scheme No. 3 [Tree Preservation Enhancement].

In the case of land cleared of trees or vegetation as defined in the City of Mandurah Town Planning Scheme No. 3, and not exempt under the Scheme, the following shall occur:

Private Land

1. Council Officers are authorised to undertake actions in accordance with the Procedure Guide: Illegal Clearing of Public or Private Land, namely:
 - a. Determine if an offence has been committed
 - b. Gather evidence that will be admissible in court, including obtaining an 'admissions against interest' and witness statement/s if applicable
 - c. If a breach is determined and an offender identified with reasonable evidence for officers to:
 - i . commence legal proceedings (prosecution)
 - where appropriate and practical negotiate for the rehabilitation of the site in accordance with the Procedure Guide
 - ii. Non-compliance with any component of Clause 1.c.ii will automatically trigger commencement of legal proceedings.

d. If the prosecution is required and is successful any funds received beyond court costs to be paid into a Reserve Fund to reinstate local native vegetation within the City of Mandurah.

Public Land

1. Council Officers are authorised to undertake actions in accordance with the Procedure Guide: Illegal Clearing of Public or Private Land, namely:
 - a. Determine if an offence has been committed
 - b. Gather evidence that will be admissible in court, including obtaining an 'admissions against interest' and witness statement/s if applicable
 - c. Erect signage on the site until site is rehabilitated to its previous state [ie trees have grown to their previous height] or e.g. a two (2) year period
 - d. If a breach is determined and an offender identified with reasonable evidence officers to:
 - i. commence legal proceedings (prosecution)
 - ii. initiate rehabilitation of the cleared site to its previous state or seek to have listed for budget consideration in the following financial year
 - e. If the prosecution is successful any funds received beyond court costs to be paid into a Reserve Fund to reinstate local native vegetation within the City of Mandurah.

Procedure: Illegal Clearing of Private or Public Land

Originating Section:
Planning Community Development and Sustainability

Reviewer: Coordinator Eco Services

Approved: Minute: G.17/7/08
15 July 2008

Relevant Legislation:
Section 2.7 Local Government Act 1995

Delegated Authority:

Other References:



Reference: SD 14

POLICY

SIGNIFICANT TREE REGISTER

Policy Objective:

The City of Mandurah recognises that its community consider trees to be a major community asset and part of its local natural heritage.

The objective of the Significant Tree Register Policy is to provide guidance to Council on its obligations and requirements for creating and maintaining a Significant Tree Register under Town Planning Scheme No. 3.

Policy:

(a) The City will develop and maintain a 'Significant Tree Register' and:

1. Have regard to the following sections of Town Planning Scheme No. 3:

(a) Section 6.5.2 - 'Prescribed Requirements for Tree Preservation' – 1) f) '*where the tree or bushland is registered in, or nominated for the City's Significant Tree Register*'; and

(b) Section 6.5.4 - 'Criteria for Assessing Applications' [for removal of trees or bushland] – h) '*where the tree is listed in, or nominated for the City's Significant Tree Register*';

2. Utilise the nomination process and assessment criteria for significant trees as set out in the 'Significant Tree Register';

3. Maintain a copy of the 'Significant Tree Register', and also make available via the City of Mandurah Intramaps and website;

4. Advise property owners of their obligations under the Town Planning Scheme No. 3 in respect to the protection and maintenance of trees listed in, or nominated for the '*Significant Tree Register*';

5. Undertake an education and public awareness program on 'Significant Trees' within the City and seek partnerships for programs to highlight their value;

6. Erect signage at appropriate registered significant trees to highlight the communities values for the trees on the 'Significant Tree Register'.

(b) The City will seek to protect and retain trees listed or nominated on the Significant Tree Register from development or alterations to the tree that would otherwise alter it's integrity and ongoing health.

Procedure:

Significant Tree Register – Endorsed by Council initially dated 18.11.08

Originating Section: Eco-Services

Reviewer: Coordinator Eco-Services
and Manager Planning and Projects

Approved: G:13/2/08

Relevant Legislation: – Planning and
Development Act, 2005

– Town Planning Scheme No. 3 (City
of Mandurah)

– Environmental Protection (Clearing
of Native Vegetation) Regulations
2004

Delegated Authority: Manager Natural
and Built Environment and as set
out in the Significant Tree Register

Other References: City of Mandurah
Concept Vegetation Plan