

# ENGINEERING PROCEDURE 1.1

## ISSUING NOTICE UNDER SECTION 3.25 OF THE LOCAL GOVERNMENT ACT FOR SAND AND DUST DRIFT



### 1. Introduction

In recent years, broad-acre clearing and earthworks have occurred as part of subdivisional and development works throughout the municipality. The airborne dust and wind-blown sand from these development works has, at times, impacted adversely upon the amenity of adjoining landowners.

As a result, the practice of carrying out vegetation clearing and major earthworks to facilitate these subdivision works has required a need for the development of appropriate controls to minimise the impact of sand drift generated from these sites.

### 2. Statement of Intent

The intent of this procedure is to outline the range of measures which the City considers to be necessary to prevent and minimise the movement of sand, silt, clay and rocks from a proposed subdivision site, pursuant to section 3.25(1) (a) and Item 6 of Schedule 3.1 Division 1 of the Local Government Act 1995. The Procedure will set out the way in which the City will consider and assess where a notice will be issued.

*The 3.25 notice recipient 'shall take specified measures for preventing or minimising the movement of sand, silt, clay or rocks on or from the land if, in the opinion of the local government, that movement would be likely to adversely affect other land'*

Note: It should be recognised that in the context of this procedure, a notice issued under section 3.25 of the Local Government Act 1995 is only applicable to a site where subdivision approval has been granted.

Where a Development Application (DA) is being applied, the City will manage any dust impacts by imposing suitable conditions as part of the approval or other actions identified within the appropriate planning procedure (*Planning Procedure 1.18 - Preparation and Assessment of Development Applications for Bulk Earthworks*).

### 3. Engineering Assessment

An assessment will be carried out to determine the risk of sand movement off site and the potential to cause adverse effects following receipt of a Western Australian Planning Commission (WAPC) endorsed subdivision approval for the proposed site.

It shall be the land owners' responsibility to maintain dust suppression on development sites until such time as new certificates of title have been created, from which point, if the adverse effects continue, a new notice shall be issued to the new land owner.

The Department of Environment Regulation – *A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated site remediation and other related activities* addresses the following issues:-

- Timing of development, development staging;
- Treatment of vegetation on site;
- Stabilisation of cleared areas;
- Hydromulch, chemical stabilisation;
- Contractual arrangements; and

- Procedure for the assessment and management of dust lift off (Site Classification Assessment Chart).

Importantly, the site will be assessed against the 'Site Classification' rating contained within the guidelines. The details of a particular site will then be taken into consideration when deciding the appropriate measures which should be taken to contain dust and wind-borne material generated by a land development site to maximum acceptable limits.

A 'Classification Assessment Chart' for the site will be completed to gauge the relevant 'Site Classification' for the subject site.

The chart and chart notes recognise that the major factors influencing the dust risk potential of a specific site are the time of the year when the works are to be conducted, the nature of the site and the extent and volume of the proposed works and the proximity to other land uses.

Issues that are taken into consideration and subject to measures are:-

- Soil characteristics and Cut/Fill volumes.
- Sequence of site disturbance, including maximum size of exposed areas and details on the method used for the removal and replacement of topsoil, with respect to prevailing winds;
- Contractor's site location and Lay-down areas (proximity of houses taking into consideration noise, dust and vibration perspectives);
- Notification of nearby residents by letter drop and information board on site (to include - after-hours number of engineer for the developer and/or contractor);
- Course of action to be taken in the event of a dust problem;
- Method of treatment of clearing vegetation;
- Details on interim mulching, or other stabilisation activity;
- Haul road location (may also require a TMP and / or MRWA approval);
- Other environmental factors (ie: noise, vibration, odours); and
- Historical factors – Consultant and contractor performance on previous projects.

Appendix 1 contains the details of the site classification procedure and lists provisions and contingency arrangements.

#### **4. Assessment Guidelines**

All subdivisional related works will be considered by the City's Engineering Services in accordance with the Department of Environment Regulation – *A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated site remediation and other related activities* (2011) (Appendix 1).

#### **5. Application of Notice**

Following assessment should a risk be identified a notice outlining a number of standard measures may be issued prior to the commencement of works.

All notices to owners will be issued by the Director, Engineering and Parks Services under delegated authority.

A copy of the Standard Notice Measures is contained in Appendix 2.

Note: The City is empowered to withdraw a notice and to issue further notices at any time prior to the completion of works in accordance with the appropriate subdivision approval if considered necessary.

## 6. Non Compliance of 3.25 Notice

On becoming aware of possible breaches of the measures specified in a section 3.25 notice, either by complaint or instruction, an officer of the City (ETO-Subdivisions) will inspect the site to ascertain the extents of the issues.

The sites approval history and imposed measures will be confirmed with any/all breaches being identified. If breaches are significant enough then the Director of Engineering and Parks Services may issue a further notice under delegated authority.

Upon receipt of the notice, the recipient of the notice is to immediately comply with the measures in the notice. Periodic inspections of the site will be performed and reported on over the projects lifespan. If the identified issue(s) re-occur, then the inspection enters into an evidence gathering process to support any legal implications that may follow. A further notice by the Director of Engineering and Parks Services will then be issued advising all works to cease.

## 7. Endorsement

This Engineering Procedure was endorsed by the Director, Engineering & Parks Services on the 14th March 2014.

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## Appendices

Appendix 1 - Department of Environment Regulation - [\*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated site remediation and other related activities \(2011\)\*](#)

Appendix 2 - Standard Notice Measures

## APPENDIX 2

### STANDARD MEASURES FOR NOTICES UNDER SECTION 3.25 – ITEM 6 OF SCHEDULE 3.1

*Measure: suitable action to achieve some end*

- M1 One of the following wetting agents:-  
(a) Dustex:or  
(b) Gluon;  
must be applied to any disturbed area of the land including any sand or vegetation stockpile  
(interval x times per day per hectare) using water carts.
- M2 The (street) must be swept (interval/s).
- M3 No part of the land greater than x hectares is to be cleared at any one time unless that part of the land in excess of x hectares is stabilised.
- M4 (1) The boundary of any part of the land, which is disturbed and not stabilised, must be fenced must be fenced with a fence:-  
(a) not less than 1.8 metres high  
(b) supported by post and chain link fence; and  
(c) covered with a material to prevent dust and sand drift and having with a minimum porosity of 50%.
- (2) The fence must be maintained in good condition.  
and/or
- M5 (1) The boundary of the land must be fenced with a fence:-  
(a) not less than 1.8 metres high;  
(b) supported by post and chain link fence; and  
(c) covered with a material to prevent dust and sand drift and having with a minimum porosity of 50%.
- (2) The fence must be maintained in good condition.
- M6 (1) The following activities:-  
(a) disturbance of any soil; or

(b) movement of any vehicle except on any portion of the land which is stabilised in accordance with Measure x above,

must cease and not recommence while any of the monitoring devices described in (2) below displays:-

- (a) PM10 of 50ug/m<sup>3</sup> (24 hrs);
- (b) PM2.5 of 25ug/m<sup>3</sup> (24 hrs);
- (c) TSP of 90ug/m<sup>3</sup> (24hrs); and/or
- (d) TSP of 1000ug/m<sup>3</sup> (15 minutes).

(2) For the purpose (1) above, a monitoring device is a device which is capable accurately of measuring air temperature, wind direction, wind speed, dust concentration, dust particle size and characteristics.

(3) A monitoring device must be located and operational at all times at each of the following locations:-

- (a) Xxx; and
- (b) Xxx.

as so as to be readably be inspected by the City.

M7 If any part of the land which has been stabilised becomes not stabilised that area must be restabilised within 48 hours after becoming not stabilised.

M8 Any vehicle carrying material comprising or containing sand, silt, clay or rocks must be covered or have the surface of that material stabilised before that vehicle enters or leaves the land.