

## **1. Introduction**

As part of the process for preparing a site for development, it is common that *Bulk Earthworks* are undertaken.

Given the strong winds experienced within the City, and through ineffective site management, there have been circumstances where *Bulk Earthworks* have generated airborne dust and windblown sand that has adversely impacted the amenity of nearby residents.

*Planning Policy 3.3.15 - Bulk Earthworks* sets out the City's position on Development Applications for *Bulk Earthworks* to ensure that the activities are managed to achieve various outcomes, particularly the mitigation of off-site sand and dust movement.

This Planning Procedure should be read in conjunction with *Planning Policy 3.3.15* as it provides additional insight into the consideration and assessment Development Applications.

## **2. Statement of Intent**

The purpose of this Planning Procedure is to:-

- identify the circumstances where a Development Application for *Bulk Earthworks* will be considered by the City;
- detail the information that should accompany a Development Application;
- outline the manner in which the City will assess and determine the Development Application;
- identify the matters that are likely to require satisfaction through a condition of Planning Approval, and prior to site works commencing, and the manner in which these requirements should be addressed; and
- confirm other approvals that could be required along with additional matters of relevance following Planning Approval being issued.

## **3. Planning Procedure**

### **3.1 Applicability**

The City will consider Development Applications for *Bulk Earthworks* in the following circumstances:-

- an approved Local Structure Plan has been adopted by the City and endorsed by the Western Australian Planning Commission and where no Subdivision Approval has been granted; or
- a Local Structure Plan has not been adopted but the land is zoned 'Urban Deferred' or 'Urban' under the Metropolitan Region Scheme.

*Bulk Earthworks*, following a Subdivision Approval being granted, is exempt from the requirement to obtain Planning Approval under Section 157 of the *Planning & Development Act 2005*. In these instances, Engineering Approval is a pre-requisite to works being carried out where similar sand and dust management processes will be employed.

### **3.2 Information to Accompany a Development Application**

Development Applications for *Bulk Earthworks* shall be made on the form prescribed by the Council, signed by the landowner(s) and include the following information:-

- (i) An Environmental Assessment Report incorporating:-
  - (a) the location of works;
  - (b) a Feature Survey;
  - (c) the location and details of significant vegetation (or a valid 'Clearing Permit' in the event that one has been granted by the Department of Environment Regulation);
  - (d) a Fauna Survey and relocation plan (if applicable);
  - (e) the location of all wetland and waterways (including associated floodways) along with their buffers (including buffers from adjoining land); and
  - (f) a Desktop Heritage Review, both European and Aboriginal.
- (ii) A completed 'Site Classification Assessment Chart', as per the Department of Environment Regulation's '*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated site remediation and other related activities*' ('*DER Guidelines*');
- (iii) The approved Local Water Management Strategy (if prepared with an adopted Local Structure Plan) or a Drainage Management Strategy/Plan (or similar) to demonstrate no adverse impacts on water courses or overland water flows;
- (iv) A Pre-works Geotechnical Report certifying that the land is physically capable of development or advising of the required remedial works. Where necessary, a preliminary Acid Sulphate Soil Investigation is to be included;
- (v) A Preliminary Site Investigation (if the site is known or suspected on being contaminated) and Fill Source Details;
- (vi) Earthworks Drawings (depicting existing and finished levels), including volumes of import/export material, any buffer areas, permanent or temporary water holding areas and fencing; and

Note: In situations where a Local Structure Plan has been approved, the levels within the 'Indicative Finished Levels Plan' and/or the LWMS should be used as a reference bearing in mind that final levels will be established through the subsequent subdivision and engineering stages. In the absence on an approved Structure Plan, the applicant should justify the proposed levels.

(vii) An indicative Staging Plan.

### **3.2.1 Site Classification**

With respect to point 3.2(ii) above, the 'Site Classification' rating will assist in determining the appropriate measures to be instituted to contain dust and wind-borne material generated by *Bulk Earthworks* to maximum acceptable limits.

A 'Site Classification Assessment Chart', from the *DER Guidelines*, is to be completed to gauge the 'Site Classification'.

The 'Site Classification Assessment Chart' and 'Chart Notes' recognise that the major factors influencing the dust risk potential are the time of the year when the works are to be conducted, the nature of the site, the extent of the proposed works and the proximity of the site to sensitive land uses.

Should an adjoining site have works occurring simultaneously or overlapping with the *Bulk Earthworks* on the subject site, then the 'Site Classification/s' shall be assessed taking fully into account the adjacent site as an existing land use.

The 'Score' obtained on the 'Site Classification Assessment Chart', together with any special site conditions shall then be used to determine the appropriate dust potential classification/s of the site. Some sites may be divided into more than one site classification. Provisions and contingency arrangements applied to each part of the site are those relevant to the particular 'Site Classification'.

### **3.2.2 Other Considerations**

The information required to accompany a Development Application will be influenced by the presence of an approved Local Structure Plan. Where an approved Local Structure Plan exists, the Technical Appendices lodged with the proposed Local Structure Plan can be used to satisfy some of the information requirements detailed above.

The City will consider applications to 'Stockpile Fill Material' as an interim measure, however, the Development Application is to contain the information detailed above over the area upon which the *Stockpile* is proposed to be located.

### **3.3 Development Application Assessment**

#### **3.3.1 Relevant Legislation/Documents**

Development Applications for *Bulk Earthworks* will be assessed by the City against the following legislation and documents, as required:-

- City of Rockingham *Town Planning Scheme No.2*;
- City of Rockingham *Planning Policy 3.3.15 - Bulk Earthworks*;
- 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)*;
- Department of Environment Regulation - *Identification and Investigation of Acid Sulphate Soils and Acidic landscapes*;
- Department of Environment Regulation - *Contaminated Sites Database*;
- Environmental Protection Authority - *Guidance Statement No.51 - Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment for Western Australia*;
- Western Australian Planning Commission - *draft Guideline for the Determination of Wetland Buffer Requirements*;
- *Environment Protection and Biodiversity Conservation Act 1999*;
- *Environmental Protection (Noise) Regulations 1997*;
- *AS 2436-1981 - Guide to noise control on construction, maintenance and demolition sites*;
- Department of Water - *Interim Guidelines for the preparation of a Local Water Management Strategy (2008)*;
- Department of Water - *Water Quality Protection Notes*; and
- *Road Traffic Act 1974*.

#### **3.3.2 Consultation/Referrals**

In circumstances where there is no approved Local Structure Plan and the proposed *Bulk Earthworks*, in the opinion of the City, is likely to potentially impact the amenity of the area, the City will invite comment from adjacent landowners in accordance with *Planning Procedure 1.3 - Community Consultation*.

Development Applications will be referred to the relevant State Government agency for comment prior to it being determined in accordance with clause 6.5 of Town Planning Scheme No.2. Referral agencies will normally be the Department of Environment Regulation and Department of Water, and there may be others depending upon the individual circumstances.

Where *Bulks Earthworks* are proposed on land that is within or abuts a Regional Reserve under the *Metropolitan Region Scheme*, it will be referred to the relevant agency for comment and recommendation, prior to it being determined.

### **3.4 Planning Approval**

The City has prepared a standard list of conditions to be imposed on Planning Approvals for *Bulk Earthworks*. The following requirements, and possibly others, are likely to be imposed as conditions of Planning Approval to be satisfied prior to the commencement of works:-

- (i) A Dust Management Plan (refer to section 3.4.1 below);
- (ii) A Traffic Management Plan, incorporating a truck schedule and access to the site plan. A Traffic Impact Statement may be required should the proposed routes impact on roads that service sensitive land uses;
- (iii) A Stockpile Management Plan detailing location, height, duration etc. (in situations where a *Stockpile* is proposed to be established as part of broader bulk earthworks activities);
- (iv) A Noise and Vibration Management Plan demonstrating compliance with the *Environmental Protection (Noise) Regulations 1997* and *AS 2436-2010 - Guide to Noise and Vibration Control on Construction, Demolition and Maintenance Sites*; and
- (v) Copies of any required water extraction Licences.

#### **3.4.1 Dust Management Plan**

A Dust Management Plan is to be prepared in accordance with the *DER Guidelines* and will be assessed against the following:-

- (i) Site Classification (in accordance with the *DER Guidelines*), refer to point 3.2.1 above;
- (ii) type of wetting agents and proposed interval of use;
- (iii) what/if nearby roads will be swept clean of dust/sand and on what interval;
- (iv) the size of the area being worked at any one time;
- (v) type and location of any wind barrier fencing;
- (vi) what environmental monitoring will be under taken, how many monitors and their location, what factors will be measured and the acceptable levels;
- (vii) further to point (vi) above, the mitigation response in the event that the 'acceptable levels' are exceeded; and
- (viii) proposed stabilising techniques and frequency they will be undertaken.

### Environmental Monitoring and Reporting

With respect to point 3.4.1(vi) above, the limits for the maximum level of dust concentration in the atmosphere are as follows:-

- (i) PM10 of 50ug/m<sup>3</sup> (24 hrs);
- (ii) PM2.5 of 25ug/m<sup>3</sup> (24 hrs);
- (iii) TSP of 90ug/m<sup>3</sup> (24hrs); and/or
- (iv) TSP of 1000ug/m<sup>3</sup> (15 minutes).

The level of dust being generated by a site is determined by subtracting the upwind dust concentration from the downwind dust concentration. Both concentrations should be determined at the boundary of the subject site.

### **3.4.2 Traffic Management Plan - Haulage Routes**

If material is to be either exported or imported, the City will impose a number of conditions that protect its infrastructure. These conditions can range from excluding traffic from certain roads to avoid damage to pavement and/or kerbing, to requiring a dilapidation survey of the entire route and neighbouring properties. The type of machinery being employed to move the material may also require special conditions such as the sealing of a road crossing, sweeping of roadways or even a road closure.

In these instances, a Traffic Management Plan needs to be submitted to City for approval. The City may identify a specific haulage route and it may also become evident that a road use fee may be applicable under Section 85 of the *Road Traffic Act 1974*. This provision allows the City to offset the cost of damage done by heavy haulage to localise infrastructure.

### **3.5 Other Approvals**

An application to the Department of Environment Regulation to clear Native Vegetation is also required, pursuant to the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. An exemption does not apply as *Town Planning Scheme No. 2* was not formally assessed by the Environmental Protection Authority prior to gazettal.

### **3.6 Non-Compliance**

A breach of Planning Approval conditions will be addressed in accordance with the *Planning and Development Act 2005* and/or *Planning Procedure 1.7 – Infringement Notices*.

### **3.7 Appeal**

If an applicant is aggrieved by a determination, a right of review can be requested by the State Administrative Tribunal (SAT) in accordance with section 252 of the *Planning and Development Act 2005*. An application must be made to SAT within 28 days of the determination.

### **3.8 Interpretations**

For the purposes of this Planning Procedure, the following terms are defined:-

*Council means the Council of the City of Rockingham.*

*Bulk Earthworks means any works which alter the levels of a site through cutting and filling of material or importing fill material to the site, including soil remediation and pre-loading works.*

*Stockpile means the temporary aggregation of sand or soil material above the natural ground level or above the approved finished levels in circumstances where finished levels have been established.*

### **3.9 Authority**

All Development Applications for *Bulk Earthworks*, which generate substantiated objections following community consultation, or where such applications have been received on 'Rural' zoned land, will be referred to the Council for determination.

All other Development Applications for *Bulk Earthworks* which comply in all respects with the objectives and provisions of this Planning Procedure and *Planning Policy 3.3.15* will be determined under delegated authority, pursuant to the Delegated Authority Register.

### **3.10 Endorsement**

This Planning Procedure was endorsed by the Director, Planning and Development Services on the 29th August 2014.