

Proposed Subdivision
Stephenson Avenue, City Beach
(Second Proposal)

Bond Corporation Holdings Limited

Report and Recommendations
of the
Environmental Protection Authority

Environmental Protection Authority
Perth, Western Australia
Bulletin 362 January 1989

PROPOSED SUBDIVISION
LOT 1 STEPHENSON AVENUE, CITY BEACH
(SECOND PROPOSAL)

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1. BACKGROUND

Lot 1 Stephenson Avenue, City Beach is part of the System 6 Recommendation M47. The System 6 Report was a planning study released in October 1983, following nine years of study and consideration, which included the release of a report with recommendations in 1981 and public review. In March 1984, State Cabinet accepted in principle Part I (General Principles and Recommendations) of the System 6 Report and approved of the progressive implementation of Part II (Recommendations for Specific Localities).

Recommendation M47 deals with Bold Park and adjacent land. The land in question was included in the 1983 System 6 Recommendation because it was "open space of regional significance because of its high conservation, recreation and education value, and its proximity to Perth residential areas."

Part I of the System 6 Report discussed the concept of Regional Parks and Regional Open Space. It pointed to the need to distinguish between open space of regional character, and open space which has a local amenity.

The System 6 Report recognised that acquisition of open space was not the only option for protection of the conservation and public amenity values of land of regional significance. Specific reference was made to the study of initiatives in other parts of the world, where the public may have access to privately owned land of regional significance.

The State Government further considered implementation of the System 6 recommendation in April 1985. Cabinet decided that the Environmental Protection Authority should take an overseeing role in the implementation of location-specific recommendations, and agreed to initiate action to promote the principles and implement the recommendations in Part I and continue implementation of the remaining recommendations.

In view of the lengthy process undertaken to develop the System 6 Recommendation, including public review, and extensive public exposure since the Recommendations were accepted in 1984, the Authority considers that the System 6 status of Lot 1 was public knowledge when it was purchased by Bond in 1987. Before the land was bought by Bond the Authority specifically advised the cities of Nedlands and Perth, the State Planning Commission, the vendor and the vendor's agent and other enquiries to the Authority, of the and implications of Recommendation M47 on Lot 1 Stephenson Avenue.

This assessment report considers a second proposal for residential subdivision of Lot 1 Stephenson Avenue, City Beach lodged by Bond Corporation Holdings Ltd. An earlier proposal was subject to assessment under Part IV of the Environmental Protection Act 1986.

The earlier proposal was for subdivision of the 19 ha site into 136 residential lots, and is illustrated in Appendix 1.

In March 1988 the Authority reported on the proposal and concluded that 'the development as proposed is not environmentally acceptable.' This conclusion was based on consideration of the consequences of the proposal on the intent and objectives of System 6 Recommendation M47 as well as the cumulative implications of a number of individual impacts which would lead to an unacceptable reduction in the values of the M47 area.

Other concerns highlighted in the Authority's report related to the effect that development of Lot 1 would have on reducing the overall area and diversity of natural vegetation within M47, introducing a range of impacts, such as fire threat and weed invasion, urban noise, rubbish dumping and use of pesticides, raising visual impact when the area is observed from sites within and adjacent to Bold Park and potential impacts on local groundwater.

In addition to specific comments on the environmental implications of subdivision of Lot 1, the Authority also made conclusions and recommendations by way of advice to the Minister for Environment on System 6 Recommendation M47 and the adjacent System 6 Recommendation, which together were the subject of System 6 Recommendations relating to planning and management of Regional Parks.

As provided for under the Environmental Protection Act, a significant number of appeals were lodged with the Minister for Environment regarding the Authority's report and its conclusions. These appeals were determined by the Minister, and subsequently the Minister for Environment ruled that the proposal could not be implemented.

As the Minister for Environment has determined the proponent's many grounds of appeal from the first proposal, the same grounds should not carry weight here, even though the proponent has resubmitted them to the Authority.

2. THE SECOND PROPOSAL

A second proposal for the subdivision of Lot 1 (Appendix 2) was submitted to the Nedlands City Council and the State Planning Commission. On August 31, 1988 the Environmental Protection Authority required that this proposal be referred to it since it was considered likely, if implemented to have a significant effect on the environment. The Authority subsequently decided to assess the proposal under Part IV of the Environmental Protection Act (see Appendix 3). This meant the proposal would have to be assessed by the Environmental Protection Authority before any decision was made which could allow it to proceed. It also meant that the Minister for Environment would be required to make a decision on the proposal.

The Authority determined that public input on the proposal would not be called for. The Authority considered that in its basic features, the second proposal was not unlike the earlier proposal, so that, further public review would be unlikely to identify any factors that had not been made known at the time of the earlier assessment.

Two appeals were lodged against the level of assessment. Both appeals (including one by the proponent) argued that assessment should be at the Public Environmental Report level. The Minister for Environment dismissed both appeals.

The only information on the second proposal initially provided to the Authority was a subdivisional plan and a transmittal letter from the proponent's consultant. That letter stated 'the planning principles have not changed from the initial proposal with the major amendment relating to the provision of a large open space lot of 1.775 ha in the north west corner of the site.' It also stated that a 3 metre firebreak/maintenance path would be provided along the northern and western boundaries of the site and the number of proposed residential lots was reduced from 137 to 109.

The Authority was of the view that before it reported on the proposal, the proponent should be invited to provide any additional information in terms of how it believed the second proposal addressed the issues of environmental concern identified by the Authority in its assessment of the original Knightsbridge proposal (see Appendix 4).

After a series of interactions the proponent gave a final response on 4 January 1989 by providing a report on the proposal.

The key differences between the second proposal and the earlier one assessed by the Environmental Protection Authority are as follows:

- . a 3 metre firebreak and maintenance access way was included along the northern and western boundaries of Lot 1, between the boundary and proposed lots;
- . a 1.775 ha area of open space, was provided in the north west corner of the site. (This open space is subject to a condition by the proponent that if Underwood Avenue is extended, the ownership of this open space area will revert back to the current owner for residential development); and
- . the layout of the residential lot had been altered and the number of proposed lots reduced from 137 to 109.

The open space allocation together with the 1.775 ha area referred to above comprises approximately 21% of the project site.

3. THE BOND SUBMISSION DOCUMENT

The Environmental Protection Authority is empowered to determine the form, content, timing and procedure of an environmental review. Where the proponent prepares a submission document but there is no input from the public, the Authority often makes the submission document available to the public. This may be achieved by publication as an appendix to the Authority's report on the proposal, or by making copies available in the Authority's library.

On this occasion the Environmental Protection Authority has decided that it will not publish the Bond submission, nor make it available to the public.

The Environmental Protection Authority expects proponents to describe the potential environmental impacts of proposals, and how they are to be managed, but the Bond submission adopts a very adversative mode. It is emotive, intemperate, and contains assertions and insinuations which, the Authority believes, have little or no basis in truth. It contains statements which the Authority believes are defamatory, and others which are not proper in an objective submission to the Environmental Protection Authority.

In Western Australia the system of review of environmental impacts of proposals has evolved over seventeen years, to be the most effective in Australia. The Environmental Protection Authority sets environmental objectives before the project can start, the proponent has the opportunity and responsibility to propose how to meet environmental objectives, and the public is informed and involved before Government makes decisions. The Authority believes this is an excellent system, and is not prepared to see form and content of proponent submissions deteriorate to an extent where they attack the Authority or the process.

The Bond proposal has become a matter of public notoriety, and the Authority has determined to report expeditiously. In other circumstances the Authority would not have accepted the submission for assessment, and will, in future, reject offensive submissions.

4. ENVIRONMENTAL ASSESSMENT

The Authority has examined the second proposal and considers that in its relevant features it is essentially similar to the earlier proposal for Lot 1, which it assessed in March 1988. To that extent the second proposal does not have any significant environmental impacts which are substantially different to those associated with the earlier proposal. Accordingly the Authority believes that it would be reasonable to conclude that this proposal is not a new or a different proposal in terms of its significant environmental impacts.

In assessing this proposal, members of the Authority examined the proponent's submission in detail.

Among other things the proponent repeated 59 claims which had been the subject of an appeal to the Minister for Environment on the previous proposal. The Minister had subsequently dismissed the appeal. The Authority believes, therefore, that it is not appropriate for it to re-open these matters, as the Minister has discharged his statutory function.

There were other matters raised in the Bond submission which the Authority took into account in its assessment and it wishes to make specific comment upon.

Bond expressed concern about the meaning and applicability of the term "regional significance". As discussed in Section 1, the 1983 System 6 Report identified the M47 area as having regional significance because of its conservation, recreation and education values, and its proximity to Perth residential areas. In its assessment of the earlier Bond proposal, the Authority undertook additional examination of the area in terms of its floral values, size, location, physiography, fauna, recreation and education values. Following this examination the Authority re-affirmed its opinion that the area was of regional significance.

Regional significance is used now in the same context as in the System 6 Report. By this term the Authority is identifying areas that have a value intermediate between those of local and those of global value.

Bond expressed concern about an M47 user survey previously submitted to the Authority, and supplied an alternative survey. The Authority notes the surveys undertaken by the proponent's consultant and the earlier survey carried out by the Friends of Bold Park. The Authority notes also that in the proponent's submission, considerable weight is attached to the existing use of the M47 area as a means of indicating its regional significance. In particular the proponent's report implies that its surveys indicating low usage figures mean that M47 has limited significance and is of sufficient size to accommodate additional use. The proponent also presumes that the current level of management and provision of facilities in the area will remain at the present level.

The Authority believes that the proponent has attached excessive weight to the single issue of existing use of the area. In terms of assessing an area's regional significance, the Authority also takes into account a wide range of other issues. Regardless of current recreation use, the

Authority is convinced of the area's regional significance in terms of conservation, recreation and education values and its proximity to Perth residential areas.

Bond submitted that Environmental Protection Authority reports on System 6 proposals amount to "Sequestration of Private Land". This matter is not related to an assessment of the environmental implications of the second proposal. However, the proponent has made specific accusations about the Authority's intentions in this regard. These accusations have no foundation in fact and are rejected. The proponent has based its case on a selective reading of Recommendation 14 of the 1983 System 6 Report and has interpreted in isolation from the accompanying text. The claim of taking land without compensation is refuted.

Bond submitted that the System 6 Report on M47 was in error, and should not be taken as a basis for decisions. The Authority noted the proponent has claimed that there were various errors in relation to the original M47 Recommendation. The Authority believes that there are no matters of substance that in any way affect the fundamental recommendations and designation of the area's regional significance, or that alter the inclusion of Lot 1 within the M47 area.

The Authority notes that the second proposal has reduced the undesirable edge effects. As well, more open space has been provided both in total and as a buffer to the adjacent bushland. Also the potential transmission of fires from the project site to the adjacent bushland would be reduced by the inclusion of the 3 metre firebreak inside the boundary of Lot 1.

Despite the modifications made in the direction of ameliorating some of the environmental concerns expressed by the Environmental Protection Authority in its earlier assessment of the Knightsbridge project, the second proposal is still in conflict with the Authority's fundamental conclusion that the major development of Lot 1 would unacceptably detract from the conservation, recreation and education values of the System 6 M47 area.

While the area of public open space has been increased, provision has been made for a firebreak and maintenance access way along the northern and western boundaries, and the layout and number of lots has been altered in the second proposal, the majority of the concerns of the Authority remain.

The Authority believes that the System 6 M47 area, like other similar areas of relatively high conservation value and regional significance, is a finite resource and that once decisions are made which would diminish that value, it would essentially foreclose options for future generations. Accordingly, when dealing with such areas, the Authority believes that decisions should be conservative when viewing proposals which have the potential to reduce existing conservation values.

In conclusion, the Authority believes that the proponent has not shown in its submission that the changes contained in the second proposal address or resolve the substantive issues of environmental concern identified by the Authority in its assessment of the earlier proposal.

The Authority, consistent with the reasoning in its earlier report, believes that this proposal is also environmentally unacceptable and should not proceed.

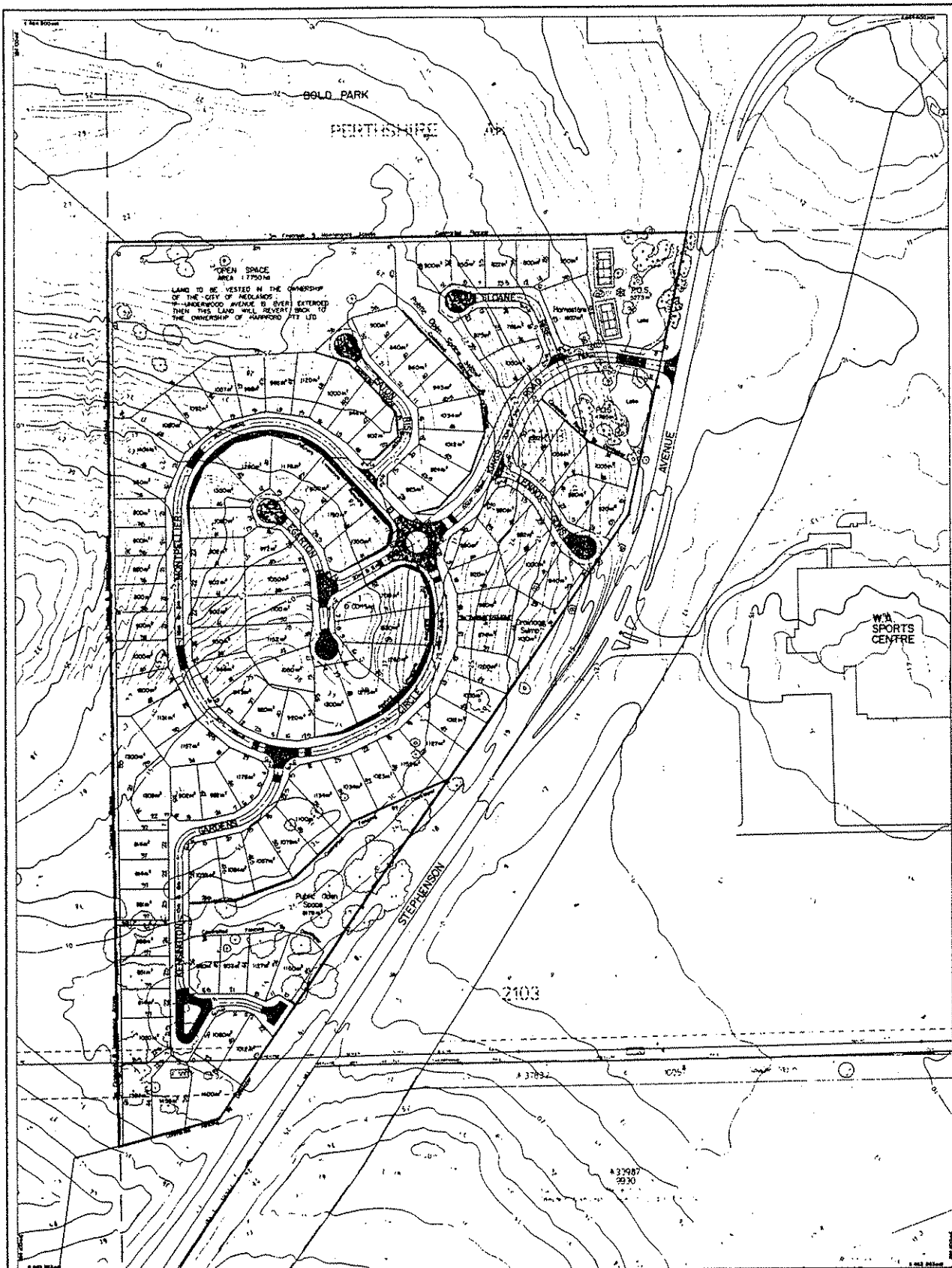
The loss of native vegetation and fauna habitat from Lot 1 would be significant. In addition, the educational and recreational values and opportunities attached to M47 would diminish through the development on Lot 1. Further, aesthetic impacts from sites within and adjoining Bold Park would remain.

5. **RECOMMENDATION**

The Authority concludes that this proposal is environmentally unacceptable and accordingly recommends that it should not proceed.

APPENDICES

Appendix 2 Plan of Second Proposal



PROPOSED SUBDIVISION
LOT 1 STEPHENSON AVE. *City Beach*



CHAPPELL & LAMBERT
PLANNING & DESIGN CONSULTANTS
 1111 St. James Street, Melbourne, VIC 3004
 Tel: 03 9594 1111 Fax: 03 9594 1112

Scale: 1:1000 Contour: 0.5m, 1.0m
 Date: 21/11/2008 Aug 08, 2009
 100% of Area and Dimensions Subject to Survey

Labeling: True Legend:

- Point
- Spot
- Survey
- Water



ENVIRONMENTAL PROTECTION AUTHORITY

1 MOUNT STREET, PERTH, WESTERN AUSTRALIA 6000

Telephone (09) 222 7000

Appendix 3 EPA Letter of 16 September 1988

Mr B A Buckley
WA State Property Manager
Bond Corporation Holdings Ltd
R & I Tower
26 St George's Terrace
PERTH WA 6000

Your Ref

Our Ref 020759 FILT

Enquiries MR G FRENCH

Dear Mr Buckley

NEW SUBDIVISION PROPOSAL, STEPHENSON AVENUE,
CITY BEACH - BOND CORPORATION

I wish to advise you that the above proposal has been referred to the Environmental Protection Authority because of concerns over the potential effects it might have on the environment.

The Authority has considered this proposal and has decided that the likely environmental impacts are sufficient to warrant formal assessment of the proposal by the Authority under Part IV of the Environmental Protection Act, 1986.

The Authority will decide the level at which the proposal is to be assessed and you will be advised of this when determined.

Should further information be needed to assist this decision, this will be sought from you or your consultants, by the Authority.

The Act requires that no decision should be made to implement the proposal until the Environmental Protection Authority has reported to the Minister for Environment and he has authorised implementation.

Yours sincerely

R A SIPPE
A/DIRECTOR
EVALUATION DIVISION

10 SEP 1988

cc: Messrs Chappell & Lambert



ENVIRONMENTAL PROTECTION AUTHORITY

1 MOUNT SIRIET, PERTH, WESTERN AUSTRALIA 6000

Telephone (09) 222 7000

Appendix 4 EPA Letter of 25 October 1988

Mr Bruce Buckley
State Property Manager
Bond Corporation Holdings Limited
GPO Box C103
PERTH WA 6001

Your Ref:

Our Ref 7/88 Pt 2

Enquiries:

Dear Mr Buckley


I refer to the new proposal for the subdivision of Lot 1 Stephenson Avenue, City Beach. I also refer to earlier letters from the Environmental Protection Authority advising you that the new proposal will be assessed under Part IV of the Environmental Protection Act and the level of assessment set was Part IV Internal.

The information available to the Authority on this proposal includes a subdivision plan, and copies of letters to the Nedlands City Council and the State Planning Commission from your Planning Consultant. Since this information has been received directly from those agencies, you have not as yet had occasion to put anything before the Authority on behalf of the proponent.

The Authority is in the process of assessing the new proposal. However, before it reports to the Minister for Environment, you may wish to provide the Authority with information as to how you believe the new proposal addresses and resolves the various issues of concern expressed by the Authority in its report on the earlier proposal.

Should you wish to provide this information, it would be appreciated if it could be sent within the next two weeks.

Yours sincerely


P. Skitmore
A/Director
Evaluation Division

25 October 1988

