

The City's comments are summarised below.

Recently Developed Local Planning Policies

The State Government publish the "Container Deposit Scheme Position Statement in May 2019". The State Government asked for the adoption of Local Planning Policy's. These policies are to provide Local Authority regulation of Container Deposit Infrastructure. The position paper contained a model Local Planning Policy.

This policy exempts Container Deposit Scheme Infrastructure meeting certain criteria from development approval.

To help roll out the Container Deposit Scheme Infrastructure, the City of Stirling developed a Local Planning Policy. This Policy is in general accordance with the model policy.

The policy has been advertised. The outcomes of advertising will be considered by the Council at its meeting on 25 February 2020.

The proposed Amendments to the Regulations means that the policy will have no effect. The City submits that developed Local Planning Policy's should be allowed to operate.

Recommendation

Modify the Proposed Regulations to allow previously prepared local planning policies to exempt Container Deposit Scheme Infrastructure from requiring development approval to prevail over the requirements of the Regulations.

The Regulations allow Recycling Centres to operate in inappropriate locations

The draft Regulation Amendments allow establishing container deposit recycling centres without development approval, as long as certain criteria are met.

The draft Regulations do not contain a definition for this use, despite the Position Statement stating this would happen. The Position Statement defines container deposit recycling centre as:

'premises used to return, consolidate, temporarily store and sort material associated with a container deposit scheme established under Part 5A of the Waste Avoidance and Resource Recovery Act 2007 before transfer to a waste storage facility or resource recovery centre, and may also include the return of small consumer goods or products as an incidental use'

It is recommended that the draft Regulations include a definition for this use.

The draft Regulation Amendments propose allowing container deposit recycling centres, in particular, where located in a building that is not within 200m of the boundary of a lot used for residential purposes.

In this scenario, a building used for a container deposit recycling centre could be setback 200m from the boundary of the residential property. However, this setback area could be used for the movement of vehicles and the storing of materials outside the building. This could affect the amenity of adjoining properties.

The Regulations also allow a container deposit recycling centre to operate on land as long as the land is not in a 'residential area'. The Regulations define a 'residential area' as "an area to which the R-Codes apply".

Local Planning Scheme No. 3 allows residential development in non-residential zones (at an R80 density) where the zoning table of the scheme allows. This means the R-Codes apply to large parts of the City, even if the land is not zoned for residential purposes. This prevents container deposit recycling centres from being exempt in the majority of the City.

The Position Statement identifies what areas are suitable locations for a container deposit recycling centres. This identifies that the use should be identified in local planning schemes as a '*permitted*' use in mixed business/service commercial bulky goods areas, commercial and light/service industrial areas. In '*centre/shopping/town centre*' type zones the Position Statement identifies the use may be a '*discretionary*' use.

Allowing container deposit recycling centres in a building within 200m of the boundary of a lot used for residential purposes is inconsistent with the Position Statement.

Facilitating the Container Deposit Scheme should not be rolled out at the expense of proper and orderly planning. A recycling centre is a use that is only appropriate in certain zones, and not in areas where there is a reasonable expectation that residential amenity should not be compromised.

Because of potential off-site impacts (such as noise and adverse visual amenity) associated with recycling centres, these should not be allowed without assessing impacts through a development application process.

A container deposit recycling centre is not a specific defined land use in the Local Planning Scheme No. 3. It is a use that falls under the Industry – General land use. This use is not permitted in any zone in Local Planning Scheme No. 3 other than the Industry and the Mixed Business zones. In regulating this through its Local Planning Scheme, Council has determined how land uses should integrate with one another.

The City's officers are concerned that if the draft Regulations come into effect as advertised, this will compromise the strategic planning for the City that has been undertaken. For example, the City's officers have met with proponents of container deposit recycling centre along Scarborough Beach Road. This is an inappropriate location for this type of use.

For these reasons, it is recommended that the draft Regulations be modified to make it clear that container deposit recycling centres should only be exempt in Industrial type zones.

Recommendation

Proposed clause 61C.2 is modified to restrict container deposit recycling centres to Industrial zones.

Reverse Vending Machines

The draft Regulation Amendments do not differentiate between a small or large reverse vending machine. The WAPC Position Statement did, with notable differences being that a large reverse vending machine is typically stored outdoors and a small reverse vending machine may be used indoors.

The Regulations restrict the operating hours for a reverse vending machine where a neighbouring property is used for residential purposes. This would restrict the use of a small reverse vending machine that is located inside a building.

These draft Regulation provisions are more restrictive than the Model Policy that only applied to large reverse vending machines, and the City's draft Local Planning Policy 6.16 which only applied to any reverse vending machine when located within 100m of a residential property.

Additionally, the draft Regulations restricts service vehicles access to hours outside of the operating hours of the infrastructure. This means that service vehicles have to come early in the morning or later in the evening. These are inappropriate times to service infrastructure due to the level of noise created, and potential impacts to adjoining properties.

For these reasons, the following modifications are recommended.

Recommendation

Clause 61B.3.c be modified to allow small reverse vending machines to operate at times outside of 7am to 7pm when located indoors, or greater than 100m from a residential property.

Recommendation

Clause 61B.3.c be modified to prevent servicing of infrastructure outside the following hours:

- (i) between 9.00 am and 7.00 pm on Sundays and public holidays; and*
- (ii) between 7.00 am and 7.00 pm on other days.*

Container Collection Cage Operating Hours

The draft Regulation Amendments do not limit the times which someone can deposit containers into collection cage. This would allow containers to be deposited early in the morning or late at night.

The City's draft Local Planning Policy limited the operating hours of collection cages to the same hours as a reverse vending machine when located within 100m of a residential property, with the cages to be locked outside the permitted hours.

These provisions will safeguard the residential amenity of an area.

Should the draft Regulation Amendments be enacted, this would supersede the City's draft provisions, allowing the use of collection cages at all times.

Recommendation

Proposed clause 61B.4 be modified to restrict the hours that a container collection cage can operate when located within 100m of a residential property to:

- (i) between 9.00 am and 7.00 pm on Sundays and public holidays; and*
- (ii) between 7.00 am and 7.00 pm on other days.*

Definitions

A number of terms used in the Regulation Amendments differ to the definitions used in the Model Policy, such as 'container collection cage', and 'reverse vending machine', which have minimal consequence.

The Regulations introduce the term 'significant vegetation or landscaping' that is not defined. The lack of definition means that trees or vegetation may be removed because there is no clarity what 'significant' means.

If the intent of the clause was to retain significant vegetation, this needs to be defined. The removal of shrubs may be appropriate, but not the removal of trees.

Recommendation

A definition for 'significant vegetation' is provided in clause 59A, to prevent confusion as to what sort of vegetation and landscaping can be removed without development approval when container deposit scheme infrastructure is proposed.

Heritage Provisions

The Regulation Amendments update references in Schedule 2 Clause 59A and 61 to reference the *Heritage Act 2018*. However other references to the *Heritage of Western Australia Act 1990* in the Regulations have not been updated.

This matter is brought to the Department of Planning, Heritage and Lands in case this was not intended.