

## 9.2 - Notice of Motion - Water testing of the Permapole site in Cardup (SJ4382)

<b>Elected Member</b>	Councillor Byas
<b>Disclosure of Officers Interest:</b>	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

### Notice of Motion

A Notice of Motion was received from Councillor Byas via email on 11 November 2024.

The Notice of Motion is “*That Council REQUESTS the Chief Executive Officer to:*”

1. *Engage a suitably qualified and independent contractor to conduct water contamination assessments at the Permapole site in Cardup.*
2. *Ensure water sampling is conducted at any catchment dam/s, discharge area/s, and any other locations determined as appropriate by the independent contractor.*
3. *Instruct the contractor to perform sampling from the catchment dam/s at various levels and times, including sampling of dam sediments.*
4. *Test for arsenic, chromium, and any other contaminants deemed appropriate by the independent contractor.*
5. *Present the results to a future Council meeting as soon as practical, including all technical reports as attachments to the report. These attachments are to be open for public inspection, and the report must detail the methodology used along with all technical considerations.*
6. *Forward all reporting to the Department of Water and Environment Regulation (DWER).*
7. *Write to Permapole, advising them of Council's decision and inviting compliance with Council's resolution. Should they decline, write to the Director General of DWER requesting the legal instrument to conduct the testing as required by Council's resolution within the scope of the company's DWER licensing.”*

### Relevant Previous Decisions of Council

Nil.

### Officer Comment

Permapole is located within the Cardup Business Park, and is an operation which is licensed by the State Government Department of Water, Environment and Regulation's industry licencing function. This is a licence issued by DWER for a Category 29 Prescribed Premise (timber preserving).

### Contact Us

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The DWER industry licence report describes the industrial process whereby logs are treated with a copper chrome arsenate (CCA) solution. The licence report includes a description of how the CCA solution is handled, and also how its risk profile is managed. Of specific relevance is the statement that no discharge of any contaminated stormwater is permitted to the environment.

In this regard, the DWER industry licence places operational requirements for an on-site lined pond and associated pipeline to manage wastewater. This is provided as specific infrastructure for the containment of contaminated and potentially contaminated stormwater, from the treated timber storage area prior to evaporation, reuse or disposal to a facility licensed to accept the wastewater.

As this is an industry licence administered by the DWER, Officers consider it more appropriate that any request for a comprehensive water contamination assessment be made of the DWER. DWER would have a more direct legal footing in which to undertake such assessment, based on the risk they perceive and the recent information they have been sent by a nearby resident, including test results. They are also the responsible industry regulator, and not the Shire, in this respect.

As per the Alternative Officer Recommendation, it is recommended that DWER be requested to mobilise their resources to undertake the water contamination assessment. This is also considered to reflect Council Policy 4.4.1 which has a policy purpose to establish a framework for avoiding duplication of the provision of Health Services within the meaning of the *Environmental Protection Act 1986* given the obligations of Council pursuant to Section 3.18(3) of the *Local Government Act 1995*.

In this regard, there is no statutory power requiring local governments to provide premises monitoring, inspect, or investigate complaints under the provisions of the *Environmental Protection Act 1986*, and particularly recognising the roles of the State Government Industry Regulator in respect of prescribed premises.

According to the policy, it states that:

*“Council having considered the provisions of Section 3.18(3) of the Local Government Act 1995 and the nature of Environmental Health Service relating to matters regulated by the Environmental Protection Act 1986, and is satisfied that the Shire of Serpentine Jarrahdale will not be responsible for investigating matters relating to Licensed Premises under the Environmental Protection Act 1986, as this service duplicates a service provided by another body or person.*

The Policy then states that:

*“The Shire’s Authorised Officers and Inspectors will only undertake the service where it does not inappropriately duplicate services provided by any other body or person, and will continue to:*

- *Assess and respond to noise pollution and administer the requirements of the Environmental Protection (Noise) Regulations 1997 with the exception of licensed premises in accordance with the delegation under the Environmental Protection Act 1986.*
- *Assess and respond to unauthorised discharges and administer the requirements of the Environmental Protection (Unauthorised Discharge) Regulations 2004 with the exception of licensed premises in accordance with the delegation under the Environmental Protection Act 1986.*



- *Investigate low level pollution which can be dealt with by the Council under its Local Laws but where a matter becomes too complex, requires expertise, or resources beyond which the Council could reasonably expect to provide it will be referred to the Department of Water and Environmental Regulation for investigation.”*

This would establish a policy position that the Shire would not normally be undertaking actions specific to a licenced premise, such as Permapole.

Notwithstanding this, from a public health perspective, Officers have offered nine residential properties directly opposite the facility, free testing of their household potable drinking water source (which should be a rainwater tank connected to roof catchment) and any bore water source used for irrigation or stock watering. At this stage, only one resident has taken up this offer.

#### **Attachments (available under separate cover)**

Nil.

#### **Financial Implications**

The cost to undertake a water sampling analysis would be expected to exceed \$10,000.

Procurement policy would require written quotes to be obtained and until that occurred, it is not possible to exactly define the financial costs of the Notice of Motion recommendation. Also, the agreement of the company to permit water sampling to occur, is unknown and uncertain.

The alternative Officer recommendation would not result in any costs to the Shire, but such would be contingent on DWER agreeing to undertake all the work at its costs. Such arrangement is also reflective of Council Policy 4.4.1, as discussed.

**Voting Requirements:** Simple Majority

#### **Elected Member Recommendation**

**That Council REQUESTS the Chief Executive Officer to:**

- 1. Engage a suitably qualified and independent contractor to conduct water contamination assessments at the Permapole site in Cardup.**
- 2. Ensure water sampling is conducted at any catchment dam/s, discharge area/s, and any other locations determined as appropriate by the independent contractor.**
- 3. Instruct the contractor to perform sampling from the catchment dam/s at various levels and times, including sampling of dam sediments.**
- 4. Test for arsenic, chromium, and any other contaminants deemed appropriate by the independent contractor.**
- 5. Present the results to a future Council meeting as soon as practical, including all technical reports as attachments to the report. These attachments are to be open for public inspection, and the report must detail the methodology used along with all technical considerations.**
- 6. Forward all reporting to the Department of Water and Environment Regulation (DWER).**
- 7. Write to Permapole, advising them of Council's decision and inviting compliance with Council's resolution. Should they decline, write to the Director General of DWER requesting the legal instrument to conduct the testing as required by Council's resolution within the scope of the company's DWER licensing.**



**Alternate Officer Recommendation**

**That Council:**

- 1. REQUESTS the Chief Executive Officer to write to the Director General of the Department of Water, Environment and Regulation (DWER) and responsible Minister for the Environment, requesting that DWER undertake a formal investigation of the Permapole timber preserving industry in response to the nearby resident complaint that was sent to DWER on 3 October 2024, and which included water sampling results.**
- 2. REQUESTS (if DWER agree to undertake the formal investigation) that DWER Officers present the findings to a future Policy Concept Forum meeting of Council, together with any actions that will be taken by DWER, as the case may be.**
- 3. REQUESTS that DWER Officers establish a separate webpage for concerned members of the community to be kept up to date on all matters pertaining to any formal investigation they agree to do.**
- 4. REQUESTS (if DWER agree to undertake the formal investigation) that DWER Officers write to all landowners within 1,000m of the Permapole facility advising of the actions being taken.**