APPLICATION FOR MINING LEASE 70/39 AND 70/99

OBJECTIONS:
67/83 and 77H/84 by Metropolitan Region Planning Authority.
68H/83 and 7H/84 by Conservation Council of WA Inc.
63H83 and 262H by City of Stirling.

APPEARANCES:
Mr Bannerman for Mallina Holdings Ltd
Mr Kerferd for MRPA
Mr Pope for the Conservation Council
Mr Ayres for the City of Stirling

DECISION

Applications for Mining Leases 70/39 and 70/99 by Mallina Holdings Ltd at Herdsman's Lake.

The above applications were finally heard on the 19th February 1986, together with objections from the Metropolitan Region Planning Authority (as it was), the Conservation Council of W.A. Inc., and the City of Stirling.

In fact the issues had been negotiated extensively over a long period and resulted in the private developers and the State Planning Commission, (as it is now), with the general acquiescence of the City of Stirling, bringing into being detailed and far-reaching proposals for the use of the areas of land and water around Herdsman's Lake which related to these applications, and which are not part of earlier schemes of arrangement.

Generally speaking, the Conservation Council of W.A. arranged the presentation of evidence on behalf of interests opposed to the applications or rather the activities likely to be carried out through them. I believe the Council did so in a responsible fashion, avoiding hyperbole, and looking to suggest realistic and practical modifications to the present plans.

The evidence was well summarised in the exhibits and final submissions on file, (fortunately), as the transcript is of little value, far too much was lost in...
transcription.

There are arguments which range from a stance that the Lake should not be touched, that the future will demonstrate the decisions taken so far to be ill informed, hasty and wrong, almost as wrong as that sixty years ago to drain the Lake for agriculture, through a stance that some development is appropriate, but the proposals go too far, to a stance that the proposal are balanced and complete, leaving no matters of concern for the Mining Act.

The most unusual aspect of my report to the Hon. Minister is that there are no real proposals to mine on the leases in any normal sense of the word. The plans are to dredge and move sand, water and peat from one place to another, to rearrange the lake environment, with the result that the land will become available for various public and commercial purposes. If the leases were granted, then no "production" would take place through the sale of minerals except conceptualised mining as in the terms of the agreement exhibit A (blue bound agreement of 17th February 1986).

At the same time, numerous government agencies, particularly the State Planning Commission are involved in this area, to a heavy extent. The State Planning Commission has come to be the body which speaks for the State to an important extent now that the proposals have developed to this extent. The City of Stirling has withdrawn from the arena, content with the State Planning Commission proposals.

I have read and considered the evidence and submissions but have difficulty in finding matters for report under the Mining Act, because it is really not a mining proposal. This is not to say the arrangements are so far advanced and settled as to have a momentum of their own and a negotiated contractual existence outside the Mining Act, so that the leases could be refused as inappropriate. It seems that the negotiators are using the leases as a device for identification of the parties and interests concerned, as a convenient contractual vehicle, and the facilities of the Mines Department and the Warden's Court and the Minister as a conveyancing repository. This is not necessarily wrong so long as all parties are aware of the realities.

There seems to have been a compliance with the formal requirements of the Mining Act, and in this sense the applications can be recommended for approval.
The unresolved objections are largely of degree and extent, of likely historical/ecological judgments, and so are planning decisions rather than having a legal, political or industrial base.

The applications would have a limited life, but to facilitate arrangements already made would seem to make an almost pre-emptive bid for approval.

R.F. RASMUSSEN
WARDEN, PERTH

Confidential until delivery on Wednesday 9th July 1986