

LANDCORP'S FINAL DERIVED PROPOSAL REQUEST
SECTION 39B DECLARATION BY THE EPA
STATEMENT OF REASONS

Proposal: Rockingham Industrial Zone Final Superlot Subdivision (various lots, Patterson Road, Rockingham – WAPC subdivision application 153179) referred to the Environmental Protection Authority on 11 April 2016

Proponent: Western Australian Land Authority (LandCorp)

Strategic Proposal: Rockingham Industrial Zone Strategic Environmental Assessment (Formerly IP14)

Background

In 2004, the proponent referred the Rockingham Industrial Zone to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* (EP Act). The proposal included a development area and a conservation area. Future subdivision of the development area was identified in the proposal.

The EPA assessed the proposal as a strategic proposal at the level of Public Environmental Review and published its report in April 2011 (Report 1390). The EPA recommended a larger conservation area and a smaller development area, which was supported by the proponent. Future subdivision of the revised development area was identified in the EPA report.

In May 2011, the then Minister for Environment, after consulting relevant decision making authorities, published Ministerial Statement 863. The Statement said that the future derived proposals identified in EPA Report 1390, that is subdivision of the development area, may be implemented subject to the conditions set out in the Statement.

Since the original publication of Ministerial Statement 863 three minor changes have been made under section 45C and two derived proposals have been approved.

In April 2016, the proponent referred a proposal to subdivide the remainder of Rockingham Industrial Zone to the EPA under section 38 of the EP Act. The proponent requested that the proposed subdivision be declared a derived proposal. The subdivision plan is attached to the EPA's section 39B notice accompanying this Statement of Reasons.

The referral and the request that it be declared a derived proposal were advertised on the EPA Consultation Hub from 3 June 2016 to 10 June 2016. No comments were received.

Note that the proposal only concerns the subdivision of land and not the subsequent use of that land for industrial development. Industrial developments to be built on the subdivided land were not identified in the strategic proposal or assessed by the EPA.

Therefore, future industrial development proposals are not within the scope of 'derived proposals' and would require separate referral to the EPA if they are likely to have significant effect on the environment.

Process for Decision on Derived Proposal

On receipt of a request that a referred proposal be declared a derived proposal, the EPA's consideration of the request is subject to the provisions of section 39B of the EP Act.

The EPA is required to declare a referred proposal to be a derived proposal if it considers that the proposal satisfies the provisions of section 39B(3):

Was the referred proposal identified in a strategic proposal that was assessed by the EPA? (s39B(3)(a))

Was an agreement reached or a decision made that the referred proposal could be implemented or could be implemented subject to conditions and procedures? (s39B(3)(b))

Despite section 39B(3), the EPA may refuse to declare a referred proposal to be a derived proposal if it considers that the provisions of section 39B(4) apply:

Does the referred proposal raise environmental issues that were not adequately assessed when the strategic proposal was assessed? (s39B(4)(a))

Is there significant new or additional information that justifies reassessment of issue raised by the referred proposal? (s39B(4)(b))

Has there been a significant change in the relevant environmental factors since the strategic proposal was assessed? (s39B(4)(c))

Section 39B subsections (3) and (4) can be considered as providing five aspects to the EPA's consideration of a request for the declaration of a derived proposal.

Consideration of the Five Aspects

1. Was the referred proposal identified in a strategic proposal that was assessed by the EPA?

Yes, future subdivision of the Rockingham Industrial Zone development area was identified in the Rockingham Industrial Zone strategic proposal that was assessed by the EPA (Report 1390).

2. Was an agreement reached or a decision made that the referred proposal could be implemented or could be implemented subject to conditions and procedures?

Yes, the then Minister for Environment issued Ministerial Statement 863 in May 2011. The Statement said that future derived proposals identified in EPA Report 1390 may be implemented subject to the conditions set out in the Statement.

Schedule 1 of Ministerial Statement 863 sets out the key proposal characteristics of future derived proposals including subdivision proposals. These are that they be within the development area, be in accordance with the Water Management Strategy required under Condition 6-1, and include a Construction Environmental Management Plan and an Environmental Management Plan. The referred proposal to subdivide the remainder of the Rockingham Industrial Zone satisfies these requirements. Therefore, the EPA is satisfied that this aspect has been met.

Note that Schedule 1 of Ministerial Statement 863 also specified a number of matters that the Construction Environmental Management Plan and the Environmental Management Plan are to address. While the two plans address these matters, they also include material that addresses other matters relating to other approval processes. The EPA has not assessed this other material as it is beyond the scope of Ministerial Statement 863. The EPA's determination to declare the proposal to be a derived proposal should not be interpreted as approval of this other material.

3. Does the referred proposal raise environmental issues that were not adequately assessed when the strategic proposal was assessed?

No, the EPA assessed the environmental factor *Conservation Values – the protection of Threatened Ecological Community 19b (TEC) and associated wetlands within the Conservation Area*. It remains the relevant environmental factor (under Environmental Assessment Guideline No. 8 it would now be called *Flora and Vegetation, Hydrological Processes and Inland Waters Environmental Quality*). Notwithstanding changes to nomenclature, the assessment was both rigorous and comprehensive. The referred proposal does not raise environmental issues that were not adequately assessed when the strategic proposal was assessed. The EPA is satisfied that no new environmental issues have arisen that were not adequately assessed when the strategic proposal was assessed.

4. Is there significant new or additional information that justifies reassessment of the issues raised by the referred proposal? (s39B(4)(b))

No, the EPA's assessment of the Rockingham Industrial Zone strategic proposal concluded in April 2011 when it issued Report 1390. It remains up to date. No new information was submitted through the call for public comments on the referred proposal. The EPA is satisfied that there is no new or additional information that justifies reassessment of the issues raised by the referred proposal.

5. Has there been a significant change in the relevant environmental factors since the strategic proposal was assessed?

No, as noted above, the EPA's assessment of the Rockingham Industrial Zone strategic proposal concluded in April 2011 when it issued Report 1390. It remains

up to date. There has not been a significant change in relevant environmental factors since the strategic proposal was assessed. The condition of the conservation area has improved as it has been fenced and rubbish has been removed. The EPA is satisfied that there has not been a significant change in the relevant environmental factors since the strategic proposal was assessed.

Whether or not implementation conditions relating to the proposal should be changed?

Section 39B(6) of the EP Act provides for the EPA to conduct an inquiry under section 46 of the EP Act into whether or not the implementation conditions relating to the proposal should be changed. In this case, the EPA has determined that the EPA Chairman should inquire into the conditions, under Delegation No. 25 dated 24 January 2012, and provide a report to the Minister for Environment. The inquiry and report will be published separately to this statement of reasons.

Conclusion

For the reasons expressed above, the EPA has determined to declare the proposal to subdivide the remainder of Rockingham Industrial Zone to be a derived proposal and give written notice of the declaration to the Minister for Environment along with these reasons for the decision.