

Mr Mike Archer  
Chief Executive Officer  
City of Busselton  
Locked Bag 1  
**BUSSELTON WA 6280**

Our Ref: CMS17413  
Enquiries: Liesl Rohl, 6364 7600  
Email: [Liesl.Rohli@dwer.wa.gov.au](mailto:Liesl.Rohli@dwer.wa.gov.au)

Dear Mr Archer

**DECISION UNDER SECTION 48A(1)(a)**  
***Environmental Protection Act 1986***

<b>SCHEME:</b>	<b>City of Busselton Local Planning Scheme 21 - Amendment 28 (Omnibus)</b>
<b>LOCATION:</b>	<b>Various locations within the scheme area</b>
<b>RESPONSIBLE AUTHORITY:</b>	<b>City of Busselton</b>
<b>DECISION:</b>	<b>Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)</b>

Thank you for referring the above proposed scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Sutton', with a stylized flourish at the end.

**Anthony Sutton**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

21 January 2019

Encl. Scheme Advice and Recommendations

**ADVICE UNDER SECTION 48A(1)(a)  
ENVIRONMENTAL PROTECTION ACT 1986**

**City of Busselton - Local Planning Scheme 21 - Amendment 28 (Omnibus)**

**Location: City of Busselton**

**Determination: Scheme Not Assessed – Advice Given (not appealable)**

**Determination Published: 21 January 2019**

**Summary**

The City of Busselton proposes to amend the existing Local Planning Scheme No. 21 (LPS No. 21) to align with the *Planning and Development (Local Planning Scheme) Regulations 2015* to form Amendment 28 (Omnibus). Amendment 28 proposes to apply zoning and reserve designations that align with the existing development tenure of holdings within the local government area. New development is proposed within specified locations that have not yet been developed. The Environmental Protection Authority (EPA) notes that two of the amendment areas; Lot 32 Lyddy Road and Lot 501 Blum Boulevard, Yalyalup have been removed from proposed Amendment 28.

The EPA has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the LPS No. 21 Amendment 28 is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the documentation provided by the City of Busselton (the City). Having considered this matter the following advice is provided.

**1. Environmental Factors**

Having regard to EPA's Statement of Environmental Principles, Factors and Objectives, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- a) Flora and Vegetation,
- b) Terrestrial Fauna,
- c) Social Surroundings; and
- d) Marine Environmental Quality

**2. Advice and Recommendations Regarding Environmental Factors**

The Amendment 28 area contains native vegetation, underrepresented Abba and Ludlow vegetation complexes, threatened and priority ecological communities, conservation significant fauna and fauna habitat. The EPA notes the majority of areas containing remnant native vegetation have been retained as recreation, bushland conservation or Public Open Space (POS). The EPA supports this approach to managing potential impacts to these environmental values. However, should future development of the areas be proposed, flora, vegetation and fauna surveys should be undertaken to determine potential environmental impacts and inform areas to be retained, protected and managed.

*Special Provision Area 68 (Vasse Urban Development Zone):*

The EPA notes that the majority of native vegetation has been cleared within the Special Provision Area 68 (Vasse Urban Development zone). Part Lot 9000 Yebble Drive and part Lot 221 Northerly Street, Vasse contain remnant native vegetation which is proposed to be retained for recreation and POS in the current Overall Vasse Structure Plan. However, the

majority of Lot 221 is proposed to be developed for residential purposes in the current structure plan. The northern portion of Lot 221 contains remnant vegetation in good condition. The vegetation in this area is part of the Ludlow vegetation complex and supports conservation significant fauna habitat for Threatened Western Ringtail Possums and Carnaby's Black Cockatoos. The EPA recommends that the northern portion of remnant vegetation within Lot 221 be retained as POS to support conservation significant fauna species and fauna habitat. On 7 January 2019, the City of Busselton provided modified scheme text provisions to retain, manage and protect important environmental values for conservation purposes on Lot 221. The EPA notes that remnant native vegetation is identified for retention in the scheme provisions and expects that structure planning will represent this requirement. Clearing of vegetation on Lot 221 which supports Threatened Western Ringtail Possums and Carnaby's Black Cockatoos may also require assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999).

*Special Purpose (Yalyalup Development Area):*

The Yalyalup Development Area has been previously referred to the EPA as part of Town Planning Scheme 20 Amendment 83. The EPA determined not to assess this area and provided advice to the City in August 2005. This advice has been implemented through local structure plans (Two Development Guide Plans; Busselton Airport North, Bussell Highway Yalyalup, endorsed by the WAPC on 1 June 2012 and 9 November 2015 and Lot 31 Lyddy Road (formerly Bussell Highway), Yalyalup endorsed by the WAPC on 26 October 2005). Amendment 28 proposes to change the Special Purpose Yalyalup Development area to urban development to align with the zoning required in the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Development over Lot 2 Bussell Highway and Lots 9032 and 9033 Joseph Drive are subject to Commonwealth approval (EPBC 2004/1878). The Commonwealth approval requires the long-term preservation of Western Ringtail Possum habitat and also requires remnant native vegetation and Public Open Space to be placed under a conservation covenant.

The Special Purpose Yalyalup Development Area is located approximately 2.5 kilometres north of the Busselton-Margaret River Airport. The Busselton-Margaret River Airport is subject to the conditions of approval in Ministerial Statement 1088 and the approved Busselton-Margaret River Airport Noise Management Plan 2018 (BMRANMP, 2018) (Version 1, dated May 2018). Future urban development as part of Amendment 28, may result in sensitive land uses being impacted by noise emissions to the environment. The Yalyalup Development Area is also located within the Noise Abatement Zone identified within the approved BMRANMP, 2018.

Amendment 28 proposes specified scheme text provisions (known as Special Provision Area 23) (SP 23) which are applicable to this location. Management of noise impacts within SP 23, requires the preparation of a Noise Management Plan (to be approved by the Department of Water and Environmental Regulation (DWER)). As part of the SP 23 scheme text provisions, the City of Busselton may recommend noise amelioration measures as part of subdivision and land development consistent with the approved Noise Management Plan. The EPA advises that the scheme text provisions for SP 23 will need to be updated to reflect the approved BMRANMP (2018) or any subsequent revisions as approved by the CEO of DWER and the requirements of condition 5-6 of Ministerial Statement 1088. The EPA also advises that the scheme text provisions for SP 23 should include a notification by way of a memorial on the Certificate of Title at the subdivision stage, to inform landowners of possible aircraft noise in the Special Purpose Yalyalup Development Area.

*Special Provision Area 69 (Port Geographe Area):*

The Special Provision Area 69 (SP 69 Area) occurs near waterways and the marine environment. Future development in the SP 69 area will provide for a mix of residential,

commercial and tourist uses. Land use and development in this area may cause potential impacts to marine environmental quality and the surrounding artificial waterway/estuarine environment associated with the Port Geographe Development.

However, the EPA advises that Ministerial Statement 990 applies to the SP 69 Area. The SP 69 Area has already been constructed as part of the Port Geographe Development Plan Area and Amendment 28 proposes a change in the land use for this area from 'tourist' and 'business' to allow for a broader range of land uses. There is an existing 'Environmental Monitoring and Management Plan' (EMMP) prepared for the Port Geographe Development Plan Area which includes the measures proposed to manage surface and ground water and sediment quality impacts to Geographe Bay. The EMMP will continue to be implemented as part of future structure planning in accordance with Ministerial Statement 990. The EPA advises that future development should be well managed to avoid impacts to waterways and the marine environment.

Proposals raising environmental issues which are likely to have a significant impact on the environment should be referred to the EPA pursuant to Part IV s38 of the EP Act.

### **Recommendation**

The EPA concludes that the scheme can be managed to meet the EPA's environmental objectives for the above factors through the proposed scheme amendment provisions, future surveys, where required, to further identify, manage, and protect the above environmental values and factors, integrated structure planning and environmental management actions. Future development proposals which may have a significant impact on the environment will need to consider the requirements of Part IV of the EP Act for environmental impact assessment.