



Chief Executive Officer
City of Swan
2 Midland Square
MIDLAND WA 6936

Your Ref:
Our Ref: CMS16119
Enquiries: Angela Coletti, 6145 0800
Email: Angela.Coletti@epa.wa.gov.au

Dear Sir/Madam

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

SCHEME: City of Swan - Local Planning Scheme 17 -
Amendment 139
LOCATION: Text Amendment
RESPONSIBLE AUTHORITY: City of Swan
DECISION: Referral Examined, Preliminary Investigations
and Inquiries Conducted. Scheme Amendment
Not to be Assessed Under Part IV of EP Act.
Advice Given. (No Appeals)

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

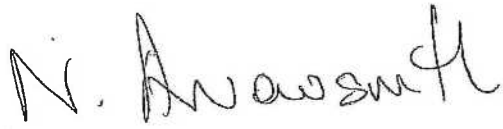
After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations.

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 will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read "N. Arrowsmith". The signature is written in a cursive, slightly slanted style.

Naomi Arrowsmith
Director
Strategic Policy and Planning Division

Delegate of the Chairman of the Environmental Protection Authority
Under Notice of Delegation No. 33 published 17 December 2013

7 June 2016

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

City of Swan Local Planning Scheme 17 Amendment 139

Location: Portion of Lots 40, 41 and Lots 6, 43, 45 and 46 Marshall Road, and Lots 1, 42, 44, 74-78 Coast Road and portion of Lots 29, 500 and Lot 800 Victoria Road and portion of Lots 102 and 103 Reid Highway, Bennett Springs.

Determination: Scheme Not Assessed – Advice Given (no appeals)

Determination Published: 7 June 2016

Summary

The City of Swan has initiated Amendment No.139 to rezone the above lots from 'General Rural' zone to the 'Residential Development' zone.

The Environmental Protection Authority (EPA) has considered the scheme in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act).

Having regard to the EPA's significance framework referred to in Environmental Assessment Guideline (EAG) No.9 *Application of a significance framework in the environmental impact assessment process*, the EPA considers that the environmental impacts of the scheme amendment are not so significant as to warrant formal assessment under Part IV of the EP Act, providing the following advice is implemented.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- a) Human Health;
- b) Hydrological Processes and Inland Waters Environmental Quality; and
- c) Flora and Vegetation.

2. Advice and Recommendations regarding Environmental Factors

The EPA has examined the City of Swan's referral documentation and conducted investigations. Subsequently the EPA has decided not to assess the scheme and expects that the environmental factors described below will be addressed through the planning process.

Human Health

The EPA objective for this factor is to ensure that human health is not adversely affected.

The EPA notes that a poultry farm is located approximately 530m north of the site on Lot 60 Cheltenham Street, Bennett Springs. The EPA acknowledges that previous EPA advice for the Metropolitan Region Scheme Amendment No.1305/27 stated a minimum of a 500m should

apply between the poultry farm buffer and the residential development zone unless site specific odour studies indicated otherwise. The EPA supports the poultry farm buffer in accordance with the EPA's Guidance No.3 *Separation Distances between Industrial and Sensitive Land Uses*.

Recommendation

The EPA concludes that the Scheme Amendment can be managed to meet the EPA's environmental objectives, through the preparation of scheme provisions and structure planning for the various Lots listed above to manage and protect the identified environmental factor of Human Health.

The EPA recommends that the scheme provisions include the requirement for a 500m buffer from the residential area to the poultry farm to guide future planning to minimise impacts on Human Health.

The EPA notes the City of Swan that under sections 181 to 185 of the *Health Act 1911*, the local government authority has the power to regulate animal odours causing nuisance. It is also an offence under section 49(5) of the *Environmental Protection Act 1986* for an emission of odour to unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person. In this case, the main issues of concern are emissions from the poultry farm, odour, noise and dust.

Flora and Vegetation, Hydrological Processes and Inland Waters Environmental Quality

The EPA objectives for these factors are:

- to maintain representation, diversity, viability and ecological function at the species, population and community level;
- to maintain the hydrological regimes of groundwater and surface water so that existing and potential uses, including ecosystem maintenance are protected; and
- to maintain the quality of groundwater and surface water, sediment and biota so that the environmental values, both ecological and social, are protected.

The EPA notes that Development of this amendment area has the potential to impact the values of Bennett Brook (Bush Forever Site 305), the Conservation Category Wetland (CCW) (UFI 15259) and the Resource Enhancement Wetland (REW) (UFI 14129).

The EPA acknowledges and supports:

- a 100m buffer to Bennett Brook,
- 50m buffer to the CCW;
- a 30m buffer to the REW; and
- the retention of approximately 0.10ha of potential foraging habitat for Black Cockatoo's to be retained within the 50m buffer of the CCW as indicated in the Concept Structure Plan dated 25/11/2015 by Creative Design and Planning.

The EPA recommends that the above provisions be included in this planning scheme amendment to guide future planning so as to minimise impacts on the Bennett Brook, CCW and the REW.

Further advice can be sought from the EPA's Guidance Statement No. 33 *Environmental Guidance for Planning and Development* which provides an overview of environmental protection processes and information, to assist land use planning and development in Western Australia.

Recommendation

The EPA concludes that the Scheme Amendment can be managed to meet the EPA's environmental objectives, through the preparation of scheme provisions and structure planning for the various Lots listed above to manage and protect the identified environmental factors of Flora and Vegetation, Hydrological Processes and Inland Waters Environmental Quality.

The EPA recommends:

- that provisions be included in the planning scheme for a 100m buffer to Bennett Brook, 50m buffer to the CCW and a 30m buffer to the REW, with the buffers to be maintained to reduce the environmental impacts on the Brook and Wetlands;
- that the Department of Parks and Wildlife, Department of Water and other relevant agencies be consulted prior to the finalisation of Structure Planning and Subdivision; and
- the Department of Planning and the City of Swan liaise at the subsequent stages of planning to ensure development is consistent with the EPA's Guidance and Policies.