

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

**Proposal:** Subdivision of Lot 500 Patterson Road, East Rockingham

**Proponent:** Western Australian Land Authority trading as 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.

On 26 May 2011, the 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.

On 4 October 2013, the EPA Chairman approved a minor change to the strategic proposal under section 45C of the EP Act. The minor change added 4.36 hectares to the development area. The conservation area was not changed.

On 7 November 2013, the proponent referred a proposal to subdivide Lot 500 Patterson Road, East Rockingham to the EPA under section 38 of the EP Act. The proposed subdivision area is entirely within the development area identified in EPA Report 1390 and Ministerial Statement 863 as modified by the section 45C approval dated 4 October 2013. The proponent requested that the proposed subdivision be declared a derived proposal. The subdivision plan and a figure overlaying the subdivision plan on the strategic proposal area are 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 18 November 2013 to 25 November 2013. No comments were received.

Note that the proposal only concerns the subdivision of Lot 500 Patterson Road, East Rockingham, 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 environmental impacts.

### **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 the 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 the 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 under Part IV of the EP Act (Assessment Number 1534), as set out in EPA Report 1390. The proposed subdivision of Lot 500 Patterson Road, East Rockingham is entirely within the development area of the assessed Rockingham Industrial Zone strategic proposal, as amended by a section 45C

approval dated 4 October 2013. The EPA is satisfied that this aspect has been met.

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 Lot 500 Patterson Road, East Rockingham 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 46(4) provides that the EPA may conduct an inquiry into whether or not the implementation conditions relating to a proposal declared under section 39(B) to be a derived proposal should be changed. The EPA has inquired into the implementation conditions relating to the proposal and has recommended several changes. The EPA has published a separate report on its inquiry and recommendations.

**Conclusion**

The EPA has considered whether to declare the referred proposal to be a derived proposal previously identified in the Rockingham Industrial Zone strategic proposal. For the reasons expressed above, the EPA has determined to declare the referred proposal to be a derived proposal and given written notice of the declaration to the Minister for Environment along with these reasons for the decision.