

***Environmental Protection Act 1986***

**Section 38E**

**STATEMENT OF REASONS**

**REQUEST TO DECLARE A PROPOSAL A DERIVED PROPOSAL**

**Proposal:** Subdivision (Amalgamation) of Lots 802, 804 and 4640 Mandurah Road, East Rockingham referred to the Environmental Protection Authority in July 2021.

— **Proponent:** TRECAP Pty Ltd as Trustee for the Royal View Trust —

**Strategic proposal:** Rockingham Industrial Zone Strategic Environmental Assessment (Formerly IP14)

**Decision**

For the reasons outlined below, the Environmental Protection Authority (EPA) has determined to declare the referred proposal a derived proposal.

Section (s.) 46(4) of the *Environmental Protection Act 1986* (EP Act) provides that the EPA may conduct an inquiry into whether or not the implementation conditions relating to a proposal declared under s. 38E(4) to be a derived proposal should be changed. In this case, the EPA has decided to inquire into the implementation conditions relating to the proposal. The EPA will publish a separate report on its inquiry and recommendations.

**Background**

In 2004, the Western Australian Land Authority (LandCorp) referred the Rockingham Industrial Zone strategic proposal to the EPA under s. 38 of the 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 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 may be implemented subject to the conditions set out in the Statement.

Since the publication of Ministerial statement 863 three minor changes have been made under s. 45C and three derived proposals have been approved.

In July 2021, the TRECAP Pty Ltd as Trustee for the Royal View Trust referred the derived proposal subdivision (amalgamation) of Lots 802, 804 and 4640 Mandurah Road, East Rockingham to the EPA under s. 38 of the EP Act. The proponent requested that the proposal be declared a derived proposal. The subdivision plan is attached to the EPA's s. 38E 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 22 November 2021 to 28 November 2021. 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.

### **Relevant statutory and administrative provisions**

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 s. 38E of the EP Act.

After considering public comment and the proposal documentation, the EPA then considers whether or not to declare the referred proposal to be a derived proposal.

To do so, s. 38E(4) of the EP Act requires that:

- the proposal was identified in the strategic proposal, and
- the strategic proposal Ministerial statement provides that the referred proposal may be implemented, subject to any conditions

The EPA may refuse to declare the referred proposal to be a derived proposal under s. 38E(5) of the EP Act if it considers that:

- the environmental issues raised by the referred proposal were not adequately assessed when the strategic proposal was assessed
- there is significant new or additional information that justifies the reassessment of the issues raised by the referred proposal, or
- there has been a significant change in the relevant environmental factors since the strategic proposal was assessed.

Sections 38E (4) and (5) provide the requirements for the EPA's consideration of a request to declare a referred proposal to be a derived proposal.

### Materials considered in making this decision

In determining whether to declare the referred proposal a derived proposal, the EPA has considered the following:

- the information provided by the proponent
- information obtained from conducting its own inquiries and investigations.

### Consideration

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

Yes, future subdivision of the Rockingham Industrial Zone (RIZ) development area was identified as a future proposal in the Rockingham Industrial Zone strategic assessment. The specifications and characteristics of the future proposals are identified in Schedule 1 of Ministerial statement 863. The proposal referred to the EPA is in accordance with these requirements, which is outlined below.

Element	Description and Authorised Extent (from MS863)	Derived proposal characteristics
Subdivision and provision of infrastructure	Within the development area	Lots 802, 804 and 4640 Mandurah Road, East Rockingham are located within the RIZ SEA future industrial development area.
	In accordance with the Water Management Strategy (of Condition 6-1)	Approved Western Australian Land Authority Water Management Strategy 2013 (WMS) covers the full RIZ SEA area.  Proponent has stated they will implement requirements in WMS during subdivision.
	Includes a Construction Environmental Management Plan to: <ul style="list-style-type: none"> <li>• Retain, where practical, vegetation within the developed area;</li> <li>• Include a fauna trapping and relocation Page 7 of 10 program to be implemented in consultation with the Department of Environment and Conservation (DEC);</li> <li>• Salvage potential breeding habitat for avifauna during clearing for integration into the Conservation Area; and</li> <li>• Establish vegetation in road reserves using appropriate local</li> </ul>	Approved Western Australian Land Authority Construction Environmental Management Plan 2013 (CEMP) covers the full RIZ SEA area.  Proponent has stated the CEMP will be implemented as part of implementing the proposal. Subdivision works includes; clearing of vegetation, earthworks, installation of services (electricity, water, sewerage, gas, telecommunications), construction of roads and construction of stormwater drainage.

Element	Description and Authorised Extent (from MS863)	Derived proposal characteristics
	native species to provide linkages between areas of remnant vegetation.	
	<p>Includes an Environmental Management Plan (overall or site specific) to guide future development of industry within the site to:</p> <ul style="list-style-type: none"> <li>• Retain, where practical, vegetation within the developed area, especially the threatened ecological community Sedgeland in Holocene dune swales of the Southern Swan Coastal Plain;</li> <li>• Include a fauna trapping and relocation program to be implemented in consultation with the DEC; and</li> <li>• Salvage potential breeding habitat for avifauna during clearing for integration into the Conservation Area.</li> </ul>	<p>Approved Western Australian Land Authority Environmental Management Plan 2013 (EMP). This EMP is intended to cover the entire RIZ area, not just within SEA.</p> <p>The EMP will be implemented as part of implementing the proposal, the plan is intended to cover future development within industrial lots following completion of site preparation works.</p>

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 Minister for Environment issued Ministerial statement 863 in May 2011. The Statement states that future derived proposals identified in EPA Report 1390 and described in Schedule 1 may be implemented subject to the conditions set out in the Statement. As outlined above, the referred proposal by TRECAP Pty Ltd Trustee for the Royal View Trust satisfies these requirements.

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. Consistent with EPA's *Statement of environmental principles, factors, objectives and aims of EIA*, these factors would now be considered equivalent to Flora and Vegetation and Inland Waters. Notwithstanding this difference in naming of factors, 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.

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

No. The EPA considers that its assessment of the Rockingham Industrial Zone strategic proposal remains up to date. The request that the proposal be declared a derived proposal were advertised on the EPA's Consultation Hub from 22 November 2021 to 28 November 2021. No new information was submitted through the call for public comments on the referred proposal. The EPA therefore does not consider that significant new or additional information was raised that justifies reassessment.

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

No. The EPA does not consider there has been a significant change in relevant environmental factors since the strategic proposal was assessed.