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Attention: Professor Matthew Tonts

Delivered by email to: registrar@dwer.wa.gov.au

Dear Professor Tonts

SUBDIVISION (AMALGAMATION) OF LOTS 802, 804 AND 4640 MANDURAH ROAD, EAST ROCKINGHAM

On behalf of TRECAP Pty Ltd as Trustee for the Royal View Trust (referred to herein as 'the proponent'), we take this opportunity to refer to the Environmental Protection Authority (EPA) pursuant to section 38 of the *Environmental Protection Act 1986* (EP Act) the proposed subdivision of Lots 802, 804 and 4640 Mandurah Road, East Rockingham, referred to herein as 'the proposal'. In addition, and in accordance with s 39B of the EP Act, the proponent also requests that the EPA make a determination that the proposal is a derived proposal in accordance with Ministerial Statement 863. The supporting EPA Referral Form is contained within **Attachment 1**.

1 BACKGROUND

Lots 802 and 804 Mandurah Road, East Rockingham were acquired by the proponent from the State Government through a land swap in October 2019. The proponent already owned Lot 4640 and the adjacent Lot 850 Mandurah Road, East Rockingham, the latter of which is currently utilised for a range of industrial uses/activities. Lots 802, 804 and 4640 are collectively referred to herein as 'the site' and the location of the site is shown in the attached **Figure 1**.

The site is zoned 'Industrial' under the Metropolitan Region Scheme (MRS) and 'General Industrial' in accordance with the City of Rockingham's Town Planning Scheme No. 2. The site was included within the extent of the Rockingham Industry Zone (RIZ) strategic proposal that was referred to and assessed by the EPA, as detailed in **Section 2**.

Lots 802 and 804 were swapped by the State Government with the proponent on the basis that the land was surplus to the State's needs, and that proponent owned land that was reserved for Parks and Recreation that was situated on the eastern side of the rail line. Given the underlying zoning of the site and its inclusion in the RIZ strategic proposal, the proponent was the logical party to approach for the land swap given its adjacent landholding (Lot 850) provided the only practical avenue to provide access and associated servicing to the site to enable its intended industrial development and use (consistent with the RIZ strategic proposal), and the only way this could occur is via this proposal.

The proponent now intends to progress with the subdivision (amalgamation) of the site with adjacent land (Lot 850) to enable its development for its intended purpose under the statutory planning framework and the RIZ strategic proposal. The site cannot be developed for this purpose without being amalgamated with the adjacent landholding, given there would be no road access.

2 ROCKINGHAM INDUSTRIAL ZONE STRATEGIC PROPOSAL

2.1 EPA referral and assessment

The RIZ strategic proposal was referred to the EPA in 2004. The EPA determined the proposal to be a 'strategic proposal' as defined under section 37B of the EP Act and it was assessed as a 'strategic environmental assessment'. The EPA's assessment was documented in EPA Report 1390 that was released in April 2011.

The EPA considered the following factors when undertaking its assessment of the RIZ strategic proposal (EPA 2011):

- Conservation values
- Wetlands
- Flora and vegetation
- Fauna
- Geomorphology
- Surface and groundwater quality and quantity.

The strategic proposal included land within the RIZ that had been zoned Industrial under the MRS for 20 years prior to the referral of the strategic proposal to the EPA (EPA 2011). The overarching purpose of the strategic proposal was to identify areas within the Strategic Environmental Assessment Area (SEA Area) to be reserved for conservation purposes with the remainder to be cleared for infrastructure and made available for industrial uses.

2.2 Ministerial approval and section 45C amendments

The corresponding Ministerial Statement was issued in May 2011 (Statement No. 863), and the strategic proposal has been amended three times pursuant to section 45C of the EP Act. Each amendment expanded the overall area and the development area of the proposal, as summarised below:

- The original proposal was for an overall area (the SEA Area) of 339 hectares, with the development area being all land within the SEA Area, excluding the Conservation Area.
- The first change to the proposal was to add 4.36 ha to the overall area/SEA Area (to a new overall area of 343.36 ha), with the development area being all land within the SEA Area excluding the Conservation Area.
- The second change to the proposal was to add 197.54 ha to the overall area/SEA Area (to a new overall area of 540.90 ha), with the development area being all land within the SEA Area excluding the Conservation Area of 91 ha.
- The third change to the proposal was to modify the Conservation Area boundaries to remove a rail corridor from the south and provide additional land in the north. The resultant overall area (the SEA Area) remained the same at 540.90 ha, and the development area (now defined as the Development Envelope) being all land within the SEA Area excluding the Conservation Area of 89.1 ha.

Ministerial Statement 863 (as amended) has been included as **Attachment 2**.

The site was included within the original development area/Development Envelope (as considered in the original EPA assessment and the original issue of Statement No. 803) and continued to be following all three of the S45C amendments listed above. The site has never been included within the Conservation Area (either the original area or subsequently amended area) and was not affected

by or relevant to any of the S45C amendments listed above. The site in the context of the current RIZ SEA Development Envelope and Conservation Area is shown in the attached **Figure 2**.

2.3 Summary of key proposal characteristics (as amended)

Statement No. 863 (*statement that a proposal may be implemented (pursuant to the provisions of the Environmental Protection Act 1986)*) which has been subject to changes pursuant to s45C of the EP Act, identifies the proposal as follows (taken from Table 1 of Attachment 3 to Ministerial Statement 863):

The strategic proposal is to identify a development footprint for future industrial development over a 540.9 hectare (ha) area of the Rockingham Industrial Zone, while retaining an area as a conservation reserve.

Table 2 of Attachment 3 to Ministerial Statement 863 also specifies the location and authorised extent of physical and operational elements of the proposal (as amended), which has been reproduced below in **Table 1**.

Table 1: Location and authorised extent of physical and operational elements (reproduced from Attachment 3 to Ministerial Statement 863)

Element	Location	Authorised Extent
Overall Area	Figure 1	540.90 ha of Rockingham Industrial Zone (SEA Area)
Development Envelope	Figure 1	All land within the SEA Area, excluding the Conservation Area of 89.1 ha
Derived proposal		
Type of derived proposal	Location	Authorised extent
Subdivision and provision of infrastructure	N/A	<p>Within the development area:</p> <ul style="list-style-type: none"> • In accordance with the Water Management Strategy (of condition 6-1). • Includes a Construction Environmental Management Plan to: <ul style="list-style-type: none"> ○ Retain, where practical, vegetation within the development area; ○ Include a fauna trapping and relocation program to be implemented in consultation with the Department of Parks and Wildlife; ○ Salvage potential breeding habitat for avifauna during clearing for integration into the Conservation Area; and ○ Establish vegetation in road reserves using appropriate local native species to provide linkages between areas of remnant vegetation. • Includes an Environmental Management Plan (overall or site specific) to guide future development of industry within the site to: <ul style="list-style-type: none"> ○ Retain, where practical, vegetation within the developed area, especially the threatened ecological community <i>Sedgeland in Holocene dune swales of the Southern Swan Coastal Plain</i>; ○ Include a fauna trapping and relocation program to be implemented in consultation with the Department of Parks and Wildlife (DPaW); and ○ Salvage breeding habitat for avifauna during clearing for integration into the Conservation Area.

2.4 Derived proposals (Section 39B)

Since the release of Statement No. 863, it is understood that there have been three proposals referred to the EPA that were accompanied by requests that the EPA declare the proposals to be derived proposals under s39B of the EP Act. All of these proposals were declared derived proposals and included the following:

- Subdivision of Lot 500 Patterson Road, East Rockingham, referred to the EPA on 7 November 2013, resulting in Ministerial Statement 973
- Subdivision of Lot 21 Alumina Road, East Rockingham, referred to the EPA on 28 November 2014, resulting in Ministerial Statement 995

- Rockingham Industrial Zone Final Superlot Subdivision, Various Lots, Patterson Road, Rockingham, referred to the EPA on 11 April 2016, resulting in Ministerial Statement 1043.

LandCorp (now DevelopmentWA) was the proponent for the strategic proposal and has also been the proponent for the three derived proposals to date. On this basis DevelopmentWA has prepared and submitted annual compliance assessment reports for the strategic proposal and the derived proposals. The most recent compliance assessment report covers the period 2020-2021 and it is important to note that:

- Development WA reported no areas of non-compliance across the conditions associated with Ministerial Statement 863.
- In relation to Condition 5 and the Conservation Area, all sub-conditions are either compliant or complete.
- In relation to Condition 6 and the Water Management Strategy, all sub-conditions are either compliant or complete. Of particular note is that there is a currently approved Water Management Strategy for consideration for derived proposals in accordance with Table 2 of Attachment 3.
- In relation to Condition 7 and Offsets, all sub-conditions are complete.

It is also noted that under Condition 2-1 of Ministerial Statement 863, the authorisation to request a derived proposal under s39B(1) of the EP Act shall lapse and be void 20 years after the date of the statement (26 May 2011). On this basis the authorisation remains in place until May 2031.

2.5 Relevance of RIZ SEA to the proponent and the proposal

While the latest compliance report indicates that all areas within the RIZ SEA area have now been subdivided and developed for industrial purposes following the third derived proposal, this is in fact not correct as the site and a broader area situated to the east of Mandurah Road were not included within any of the three derived proposals but clearly fall within the area assessed and covered under Ministerial Statement 863. Recent discussions with DevelopmentWA confirm their understanding of this and also confirm their support for the proponent to utilise the RIZ SEA to progress industrial subdivision and development within the site as this was the objective and intent of the RIZ SEA in the first instance.

In addition to the Ministerial Statement issued pursuant to the EP Act, DevelopmentWA (via the Western Australian Land Authority) holds an approval pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for the development of 339 ha of land in Rockingham, WA, for industrial purposes (EPBC 2010/5337). The approval is subject to conditions and has effect until 31 December 2035. The site falls within the EPBC Act approval area, and the impacts and associated mitigation/offset requirements for listed threatened species and communities (both the *Sedgeland in Holocene dune swales of the Southern Swan Coastal Plane* TEC and black cockatoos) were addressed on the basis that industrial development occurred across the full extent of the site.

Recent discussions with DevelopmentWA have confirmed that they are comfortable for the proponent to operate under the existing EPBC Act approval and the formalities required to enable this have been commenced.

3 PROPOSAL DESCRIPTION

The proponent is proposing the subdivision (via amalgamation), clearing and servicing of the site. The proponent owns the adjacent Lot 850, and the subdivision will involve the amalgamation of the site with Lot 850 to enable legal and physical road access, the provision of services (electricity, telecommunications, stormwater and wastewater) and also the preparation of the site (clearing of vegetation and earthworks/leveling) for future industrial development. This amalgamation would occur under a subdivision approval issued by the Western Australian Planning Commission (WAPC) pursuant to the *Planning and Development Act 2005*. All physical and servicing works associated with this would be authorised under the subdivision approval and this is the proposal that is being

referred to the EPA. The associated plan of subdivision (amalgamation) that shows this has been included in **Attachment 3**.

Following the implementation of the proposal via the subdivision process, the proponent would then separately progress industrial development within the site and adjacent areas. This would involve the establishment of handstand areas, internal access roads, the construction of industrial buildings/structures and any associated office areas and staff amenities. This subsequent industrial development does not form part of the proposal being referred to the EPA and would be pursued separately through specific development approval/s and building permit/s.

Based on the SEA and EPA Report 1390, the site's key environmental characteristics and the impacts which were considered and assessed by the EPA are summarised as follows:

- **Conservation values:** this was considered an overarching key environmental factor within the EPA assessment. A Conservation Area was proposed to protect and enhance some of the best examples of the SEA Area's environmental values, in the context of the broader intent to provide for industrial development. The EPA's assessment concluded that a 90.5 ha Conservation Area was required to satisfactorily achieve this, and the site does not fall within this Conservation Area, nor is it immediately adjacent or in close proximity to this Conservation Area.
- **Wetlands:** the site included a very small portion of a wetland, identified as Coffey Environments Wetland ID Number 38. This was identified as being a Resource Enhancement Wetland. The majority of this wetland feature is outside of the site and extends to the south of the southern boundary of Lot 802. None of this wetland was assessed on the basis of being retained.
- **Flora and vegetation:** the site was noted to include remnant vegetation in 'Very Good' and 'Good to Very Good' in accordance with the Bush Forever vegetation condition scale. The vegetation types were identified as being **EgAr** (*Eucalyptus gomphocephala* Open Woodland over *Acacia rostellifera* Shrubland), with a very small extent of **EgMr** (*Eucalyptus gomphocephala* Open Woodland over *Melaleuca raphiophylla* Shrubland). The **EgMr** vegetation type was also noted as being consistent with Floristic Community Type (FCT) 19b, a State listed Threatened Ecological Community (TEC) known as *Woodlands over Sedgeland in Holocene Dune Swales*. There were no areas of vegetation within the site that were assessed by the EPA as being retained.
- **Fauna:** the assessment concluded that the Conservation Area will retain most of the vegetation associations within the RIZ and as a result will also contain most of the fauna habitat and fauna species in the RIZ. There were no areas of fauna habitat within the site that were assessed by the EPA as being retained.
- **Geomorphology:** the assessment concluded a large area of the unique Low Ridge and Swale Landform was being preserved in the Conservation Area. There were no areas of landform significance outside of the Conservation Reserve that were assessed by the EPA as being retained.
- **Surface and groundwater quality and quantity:** the EPA considered surface and groundwater quality and quantity in the context of maintaining the conservation values within the Conservation Area. The site is situated away from the Conservation Area and the proposal would be implemented in accordance with a Water Management Strategy to ensure that industrial development does not impact on the conservation values within the Conservation Area.

The proposal is in accordance with the approved Water Management Strategy as required by Condition 6 of Ministerial Statement 863. While there would be no public roads created through the proposal (and therefore no need for roadside swales), all of the construction and lot level requirements associated with the Water Management Strategy will be accommodated into the implementation of the proposal.

As part of the referral, the proponent also provides a Construction Environmental Management Plan and an Environmental Management Plan, which have been included as **Attachment 4** and **Attachment 5** respectively. These were prepared by DevelopmentWA (formerly LandCorp) to support the broader RIZ SEA area, have supported the three previously determined derived proposals and have been previously reviewed and accepted by the EPA/Department of Water and Environmental Regulation (DWER) for this purpose. These management plans would be implemented as part of implementing the proposal.

Specifically in relation to the Construction Environmental Management Plan:

- This plan is intended to cover subdivision works, including:
 - Clearing of vegetation
 - Earthworks
 - Installation of services:
 - Electricity
 - Water
 - Sewerage
 - Gas
 - Telecommunications
 - Construction of roads
 - Construction of stormwater drainage.
- The requirements/actions arising out of this plan would be associated with the works authorised under the subdivision approval currently being sought by the proponent from WAPC.
- While the plan was prepared by DevelopmentWA, its coverage is the full extent of the RIZ SEA Area.

Specifically in relation to the Environmental Management Plan:

- This plan is intended to cover future development within industrial lots (following completion of site preparation works).
- The requirements/actions arising out of this plan would be associated with works authorised under separate future works authorised under planning/development approval to support specific industrial uses within the site.
- While the plan was prepared by DevelopmentWA, its coverage is the full extent of the RIZ SEA Area.

Therefore, in requesting that the EPA makes a determination in accordance with s39B that the proposal is a derived proposal in accordance with Ministerial Statement 863, the following summary is relevant:

- The proposal involves land that is situated within the Overall Area (SEA Area) as specified in Attachment 3 to Ministerial Statement 863.
- The proposal is situated within the Development Envelope as specified in Attachment 3 to Ministerial Statement 863, which is all land within the SEA Area. The proposal is not on land that was identified within the Conservation Area as specified in Attachment 3 to Ministerial Statement 863.
- The proposal is a type of derived proposal as considered in Table 2 of Attachment 3 to Ministerial Statement, being subdivision and provision of infrastructure.
- The proposal is in accordance with the approved Water Management Strategy as required under condition 6-1 of Ministerial Statement 863.
- The proposal includes a Construction Environmental Management Plan that is consistent with the requirements of Table 2 of Attachment 3 to Ministerial Statement 863 and has supported all three previous derived proposals associated with the RIZ SEA.

- The proposal includes an Environmental Management Plan that is consistent with the requirements of Table 2 of Attachment 3 to Ministerial Statement 863 and has supported all three previous derived proposals associated with the RIZ SEA.

4 SPECIFIC ASSESSMENT AGAINST THE S39B PROVISIONS

In accordance with the EP Act (specifically s39B subsection (3)) and the associated *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016*, the EPA is required to declare a referred proposal to be a derived proposal if it considers that the proposal satisfies the following:

- Is the referred proposal identified in a strategic proposal that was assessed by the EPA?
- Was an agreement reached or a decision made that the referred proposal could be implemented or could be implemented subject to conditions and procedures?

Further, in accordance with s39B subsection (4), the EPA may refuse to declare a referred proposal to be a derived proposal 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 proposal
- There has been a significant change in the relevant environmental factors since the strategic proposal was assessed.

Each of these considerations are addressed separately below.

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

The future subdivision of the RIZ development area was identified in the RIZ strategic proposal that was assessed by the EPA. The site and the proposal is situated within the RIZ SEA Area.

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

The Minister issued Ministerial Statement 863, and this specified that future derived proposals identified in EPA Report 1390 may be implemented subject to the conditions set out in Statement 863.

Schedule 1 of Ministerial Statement sets out the key proposal characteristics of future derived proposals including subdivision proposals. Derived proposals need to 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 proposal involves subdivision (via amalgamation), is situated within the development area, is consistent with the Water Management Strategy, and is supported by a Construction Environmental Management Plan and an Environmental Management Plan.

The environmental issues raised by the referred proposal were not adequately assessed

The EPA assessed the environmental factor *Conservation Values – the protection of Threatened Ecological Community 19b (TEC) and associated wetlands within the Conservation Area*. Under the current EPA policy framework (*Statement of Environmental Principles, Factors and Objectives* (EPA 2020)) this would be representative of the Flora and Vegetation, Landforms and Inland Waters environmental factors. Appendix 3 of EPA Report 1930 provides a detailed summary of the identification of key environmental factors and principles for the EPA's assessment.

The EPA assessment was rigorous and comprehensive, and therefore it is suggested that the environmental issues raised by the proposal were more than adequately assessed when the RIZ SEA was undertaken.

In addition, the proponent for the strategic proposal has progressed compliance with Ministerial Statement 863, including the following that have relevance for the relevant environmental factors and impacts associated with the proposal:

- Establishment and management of the Conservation Area
- Development and implementation of an Environmental Offsets package
- Preparation of the following for the entire RIZ SEA Area:
 - Water Management Strategy
 - Construction Environmental Management Plan
 - Environmental Management Plan.

DevelopmentWA have also progressed compliance with the EPBC Act approval, including:

- Establishment of the Conservation Area
- Preparation and implementation of a Conservation Area Management Plan to address both TEC and Black Cockatoo habitat outcomes
- Undertaking protection and enhancement of Black Cockatoo habitat
- Preparation of a Water Management Strategy
- Preparation of an Offsets Management Plan.

The items listed above (for both Ministerial Statement 863 and the EPBC Act approval) were requirements to respond to the impacts associated with the entire RIZ SEA development area and have been progressed on the basis that the full extent of the RIZ SEA development area (including the site/proposal area) would be cleared and developed for industrial uses.

There is significant new or additional information

It is the proponent's view that there is no significant new or additional information that would justify reassessment of the issues raised by the proposal.

There has been a significant change in the relevant environmental factors

While there has been a refinement in the EPA's policy framework and the associated nomenclature around the environmental factors since the RIZ SEA was undertaken, there has not been any significant change in relevant environmental factors.

Summary and closing

Should you have any queries regarding the referral of this proposal please do not hesitate to contact the undersigned directly on 0488 223 306. The proponent would be happy to meet with either the EPA or the EPA Services Directorate to clarify or discuss any aspect of the referral or supporting documentation.

Yours sincerely
Emerge Associates



Jason Hick
DIRECTOR, PRINCIPAL ENVIRONMENTAL CONSULTANT

cc: Sam Gill, TRECAP Pty Ltd and Eastcourt Property Group

Encl: Figure 1: Site location
Figure 2: Proposal area in the context of the RIZ SEA Area
Attachment 1: Referral form
Attachment 2: Ministerial Statement 863
Attachment 3: Proposed plan of subdivision (amalgamation)
Attachment 4: Construction Environmental Management Plan
Attachment 5: Environmental Management Plan