

Environmental Protection Act 1986

Section 43A

**NOTICE OF DECISION TO CONSENT TO CHANGE TO PROPOSAL DURING
ASSESSMENT**

PERSON TO WHOM THIS NOTICE IS GIVEN

Digital 4 Pty Ltd (ABN: 79129827363)
Level 10, Tower A
799 Pacific Highway
CHATSWOOD NSW 2067

PROPOSAL TO WHICH THIS NOTICE RELATES:

Lot 802 and part Lot 803 Erindale Road, Hamersley
Assessment No. 2251

Pursuant to section 43A of the *Environmental Protection Act 1986* (EP Act), the Environmental Protection Authority (EPA) consents to the proponent making the following changes to the proposal during assessment without a revised proposal being referred -

- Removal of the Conservation Public Open Space from the proposal.
- Increase the disturbance footprint of Urban Development from 11.584 ha to 12.39 ha.
- Increase the disturbance footprint of Asset Protection Zone from 0.914 ha to 1.16 ha.

See Figure 1 and Schedule 1 attached.

EFFECT OF THIS NOTICE:

1. The EPA considers that the change is unlikely to significantly increase any impact that the proposal may have on the environment. The proponent may change the proposal as provided for in this notice.

RIGHTS OF APPEAL:

There are no rights of appeal under the EP Act in respect of this decision.

A handwritten signature in blue ink, appearing to read 'MAT', followed by a stylized flourish.

Professor Matthew Tonts
Delegate of the Environmental Protection Authority
CHAIR

31 August 2021

Schedule 1

Change to Proposal

Table 1: Summary of the proposal

Proposal title	Lots 802 and part 803 Erindale Road, Hamersley
Proponent name	Digital 4 Pty Ltd
Short description	<p>The proposal is to clear native vegetation to enable Urban development within Lot 802 Erindale Road, 11 km north-west of the Perth CBD, WA.</p> <p>The proposal will include the following land uses:</p> <ul style="list-style-type: none"> • urban development • asset protection zone • internal public road network • public open space (POS).

Table 2 Location and proposed extent of physical and operational elements

Element	Current extent	proposed	Proposed change to the proposed extent
<i>Physical elements</i>			
Urban development, including: <ul style="list-style-type: none"> • residential development; • internal public road network • public open space (POS) • drainage swales / basins • sewer easement 	No more than 11.584 ha, within a development envelope of 13.55 ha		No more than 12.39 ha , within a development envelope of 13.55 ha
Conservation Public Open Space	No more than 1.052 ha, within a development envelope of 13.55 ha		To be removed
Asset Protection Zone	No more than 0.914 ha, within a development envelope of 13.55 ha		No more than 1.16 ha , within a development envelope of 13.55 ha

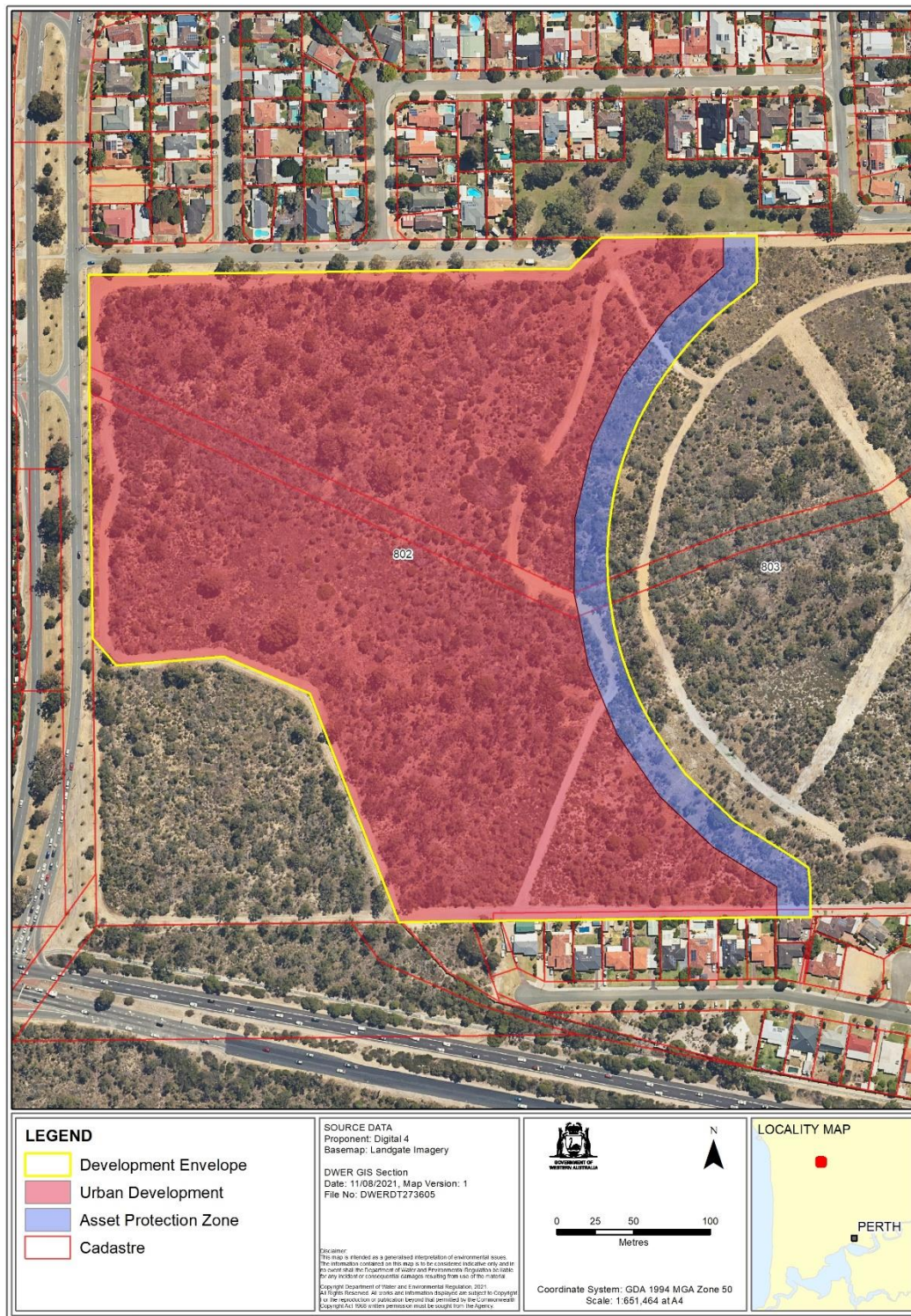


Figure 1. Revised disturbance footprint. The Conservation Public Open Space has been removed from the development envelope and it has been replaced by additions to the Urban Development and Asset Protection Zone (APZ).

Environmental Protection Act 1986

Section 43A

STATEMENT OF REASONS

CONSENT TO CHANGE PROPOSAL DURING ASSESSMENT

Proposal: Lot 802 and part Lot 803 Erindale Road, Hamersley

Proponent: Digital 4 Pty Ltd

Decision

For the reasons outlined below, the Environmental Protection Authority (EPA) has determined to consent to the Proponent changing the Proposal outlined in Schedule 1 attached to this Statement of Reasons.

Background

On 17 April 2020, the Proponent (Digital 4 Pty Ltd) referred the Proposal to the EPA under section 38 of the *Environmental Protection Act 1986* (EP Act). The Proposal is to develop Lot 802 Erindale Road Hamersley for urban development. Clearing of native vegetation will also occur within the western portion of Lot 803 to establish an Asset Protection Zone (APZ) to meet requirements for bushfire management.

The urban development will include residential development, internal public road network, public open space, drainage swales/basins and sewer easements. The proposed extent of the urban development is up to 11.584 ha within a development envelope of 13.55 ha. The proposal also includes a Conservation Public Open Space of up to 1.052 ha and APZ of up to 0.914 ha.

The EPA determined to assess the Proposal at the level of Assessment on Referral Information with additional information required (2 week public review) on 24 June 2020.

In advance of the EPA preparing a report on the outcome of its assessment of the Proposal, the Proponent has sought the EPA's consent to the proponent changing the Proposal.

Relevant Statutory and Administrative Provisions

Section 3.8 of the Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual 2016 guides what information the EPA requires from a person wanting to change its proposal during assessment.

The proponent is required to provide:

- details of the proposed change

- statement of the significance of the change and
- rationale for the change.

Materials considered in making this decision

In determining whether to consent to the proponent changing the proposal the EPA has considered the following:

1. Lot 802 and part Lot 803 Erindale Road, Hamersley: Section 43A Application (Strategen JBS&G May 2021)
2. Environmental referral supporting document (Strategen JBS&G 2020)
3. Section 40(2)(a) of the Environmental Protection Act 1986 Notice Requiring Information - Lot 802 and part Lot 803 Erindale Road, Hamersley (EPA July 2020)
4. Public submissions received during the 7 day public comment period on level of assessment
5. EPA Guidance and procedures.

Consideration

1. Nature of the proposed change

The proponent Digital 4 Pty Ltd proposes to remove the conservation area element from the urban development proposal on Lot 802 and part Lot 803 Erindale Road, Hamersley. While undertaking the additional studies required for the assessment, the proponent has identified an opportunity to provide a larger offset in Lot 803 and the adjacent Lot 1. Much of the native vegetation on these lots can be conserved while still enabling the continuation of existing broadcasting operations, the current purpose of the lots.

The Conservation Public Open Space (1.052 ha) on Lots 802 and 803 will be removed from the proposal. The development envelope will remain the same and the Urban Development and Asset Protection Zone (APZ) elements will increase in size. The disturbance for the Urban Development will increase by 0.806 ha to no more than 12.39 ha. The disturbance for the APZ will increase by 0.246 ha to no more than 1.16 ha.

To offset the increase in disturbance, Digital 4 Pty Ltd proposes a larger conservation area on Lot 803 and Lot 1, adjacent to the development envelope. Digital 4 Pty Ltd had originally proposed to enter into an agreement with the landowner of Lot 803 to ensure the preservation and protection of approximately 1.5 ha of native vegetation, within a 2.3 ha area, for conservation purposes. This was to offset the significant residual impact to the Threatened Carnaby's black cockatoo and the Bankia Woodlands of the Swan Coastal Plain Threatened Ecological Community (TEC). The offset area will be increased to 16.22 ha of native vegetation, within an area of 19.66 ha.

The revised disturbance footprint is shown in Figure 1 and the revised offset conservation area is shown in Figure 2.

2. Stage of the assessment process

The EPA set a level of assessment of Assessment on Referral Information with additional information required under section 40(2)(a) of the EP Act (2 week public review). The additional information required is for:

- Preliminary Key Environmental Factor - Flora and Vegetation
- Preliminary Key Environmental Factor - Terrestrial Fauna
- Other matter to be addressed - Greenhouse Gas Emissions
- Other matter to be addressed - Human Health
- Environmental offsets

The proponent is still preparing the additional information. The additional information will reflect the changed proposal and the public will be able to provide comments during the 2 week public review period.

3. Currency, relevance and reliability of the information, including submissions

The information relating to the change is considered reliable and relevant in relation to the change in disturbance and change to the offset. A new flora, vegetation and black cockatoo habitat assessment by Strategen JBS&G (2021) of Lots 803 and Lot 1 was provided with the s43(a) request. This provides information on the values identified in the new offset area. An arborist has now inspected all significant trees in Lot 802 and reported on their health and condition. The original referral documentation included biological surveys on Lot 802, including the location where the disturbance will change from Conservation Public Open Space to Urban Development.

4. Community engagement

The public will have an opportunity to comment on the additional information, that reflects the changed proposal, during the 2 week public submission period.

5. Level of public concern

There is a high level of interest from local residents and environmental groups. One-hundred and seventy six public submissions were received during the 7 day comment period on the level of assessment.

Consideration of Whether the Change is Unlikely to Significantly Increase Any Impact that the Proposal May Have on the Environment

The following were considered:

- Values, sensitivity and the quality of the environment which is likely to be impacted

The EPA Chair's determination identified the preliminary key environmental factors as Flora and Vegetation and Terrestrial Fauna. There are no additional key environmental factors as a result of the change.

- Extent (intensity, duration, magnitude and geographic footprint) of the likely impacts

The EPA notes that there will be a 0.806 ha (5.9 per cent) increase in the disturbance for Urban Development and a 0.246 ha (1.8 per cent) increase in the disturbance for the APZ, replacing the Conservation Public Open Space within the development envelope. The APZ will retain 15 per cent canopy cover.

The former Conservation Public Open Space contains similar values to those recorded in the rest of the development envelope. The change will result in an increased impact of 0.853 ha to the Banksia Woodlands TEC. The additional clearing is of vegetation in a degraded to very good condition. There will also be an increased impact of 0.853 ha to foraging habitat for two Threatened black cockatoo species. The former Conservation Public Open Space contains 0.853 ha of very poor to moderate-good quality foraging habitat for Carnaby's black cockatoo and 0.853 ha of very poor quality foraging habitat for Forest red-tailed black cockatoo.

The former Conservation Public Open Space does not contain potential breeding trees (DBH >500 millimetres) for black cockatoos. The impact on potential breeding trees will not increase as a result of the change.

The total amount of clearing of native vegetation, which also provides fauna habitat, will increase 7 per cent to 12.294 ha.

There will be no increase in the impacts to Priority Flora. The number of *Acacia benthamii* (Priority 2) and *Jacksonia sericea* (Priority 4) plants to be disturbed will remain the same.

The revised offset area on Lots 803 and 1 contains 16.22 ha of Banksia Woodlands TEC and Carnaby's black cockatoo foraging habitat. This is a large increase from the 2.4 ha originally proposed to be offset on Lot 803. Approximately 1.274 ha is excellent quality foraging habitat and 14 significant trees for black cockatoos will be conserved in the offset area. Three-hundred and ninety five *Jacksonia sericea* plants have been recorded in the revised offset area.

The location of the revised offset site, adjacent to the proposal, will increase the proportion of the offset that is local compared to the other proposed offset of funding for land acquisition, where the location is yet to be confirmed.

The extent of some of the potential impacts will increase with the additional disturbance, however, given the proportionately small size of the increase compared to the original impact it is unlikely to be a significant increase.

- Consequence of the likely impacts (or change)

The change to the Proposal does not alter the types of impacts associated with the Proposal.

The changes to the Urban Development and APZ footprints will increase the impact from clearing of native vegetation. The impact of clearing and indirect impacts on significant flora and fauna will be assessed during the EPA's assessment of the referral information and additional information.

The offset strategy will be revised to account for the additional disturbance and additional conservation area. This will be provided in the additional information.

The change to the proposal does not significantly alter the impacts associated with the proposal.

- Resilience of the environment to cope with the impacts or change

The EPA considers the resilience of the environment to cope with the change to the proposal remains unchanged from the original proposal.

- Cumulative impacts with other projects

Cumulative impacts will be considered in the EPA's assessment of the changed proposal. There is unlikely to be a significant change in the cumulative impacts of the proposal at a local or regional scale.

- Connections and interactions between parts of the environment to inform holistic view of impacts of the whole environment

The connections and interactions between parts of the environment will not change as a result of the proposed changes to the proposal. A holistic assessment of the changed proposal will be undertaken during the EPA assessment.

- Level of confidence in the prediction of impacts and the success of proposed mitigation

There is a high level of confidence in the prediction that the impacts from the change will not be a significant increase from the original referral, based on recent flora and vegetation surveys and black cockatoo assessments.

A detailed assessment of the impacts and the proposed mitigation will be undertaken during the assessment of the proposal.

- Public interest about the likely effect of the proposal, if implemented, on the environment, and public information that informs the EPA's assessment

One-hundred and seventy six public submissions were received during the 7 day comment period on the level of assessment. The proposed changes do impact some of the key issues raised by the submissions:

- Loss of Banksia Woodlands of the Swan Coastal Plain TEC;
- Loss of habitat for Carnaby's black cockatoo;
- The proposal involves clearing of native vegetation in a highly cleared landscape; and
- That the offset proposed for land acquisition would not provide local benefits.

Additional information on Flora and Vegetation, Terrestrial Fauna and Environmental Offsets will be subject to a 2 week public review. This will provide an opportunity for public scrutiny on the changed proposal and its likely effect on the environment.

Conclusion

In conclusion, the EPA considers that the change is unlikely to significantly increase any impact the Proposal may have on the environment primarily because:

- The proposed changes do not introduce any new environmental factors;
- The proposed changes do not alter the type of impacts likely to be caused by the Proposal;
- The size of the increased disturbance is small; and
- The impacts of the Proposal will be considered during the assessment.

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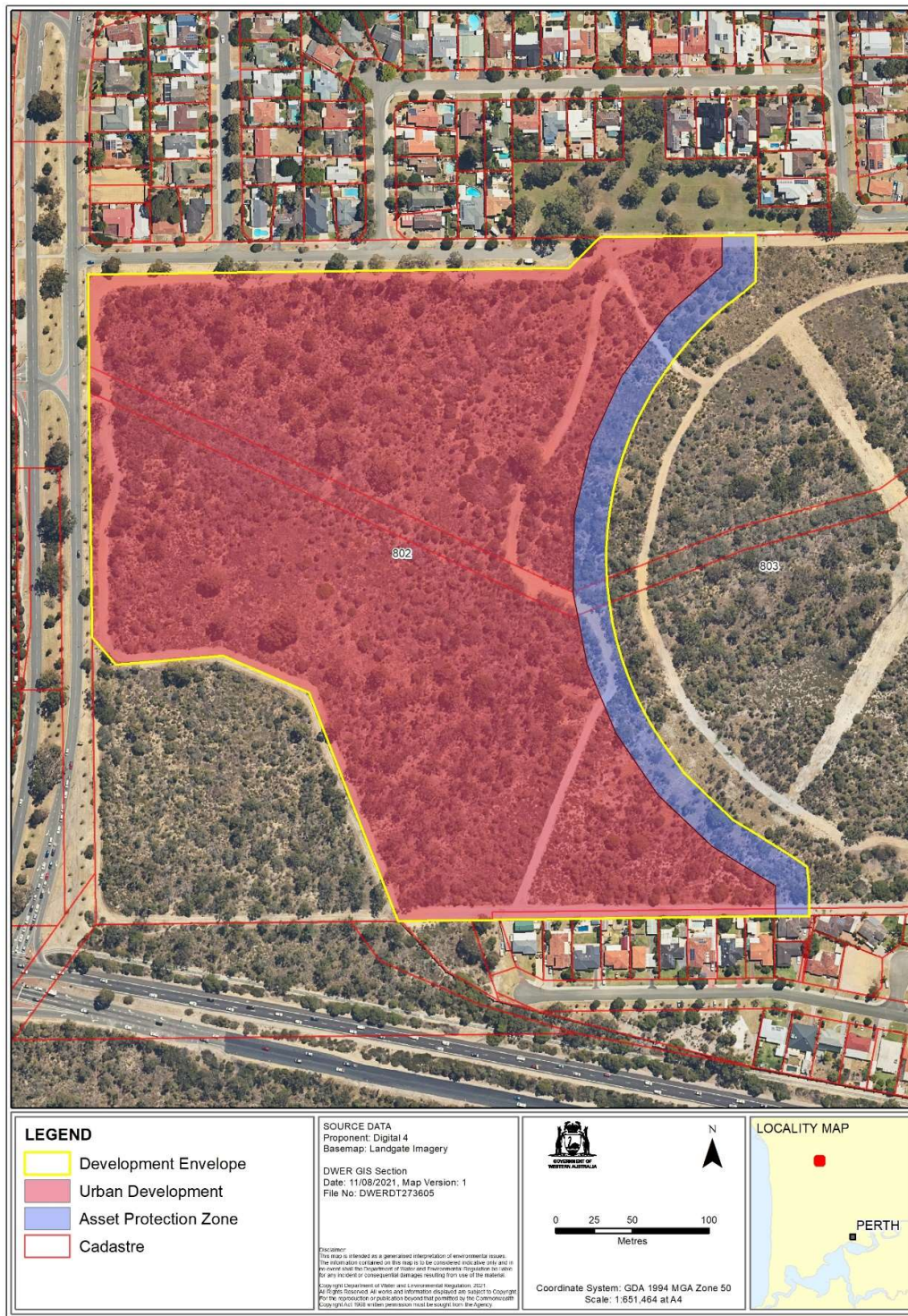


Figure 1. Revised disturbance footprint. The Conservation Public Open Space has been removed from the development envelope and it has been replaced by additions to the Urban Development and Asset Protection Zone.



Figure 2. A larger offset area has been proposed on the adjacent Lot 803 and Lot 1.