

**Section 43A**

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

**PERSON TO WHOM THIS NOTICE IS GIVEN**

The Commissioner for Main Roads Western Australia  
PO Box 6202  
EAST PERTH WA 6892

**PROPOSAL TO WHICH THIS NOTICE RELATES:**

Bunbury Outer Ring Road Southern Section  
Assessment No. 2225

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 -

- 1) *Amendments to the design and construction details of the proposal resulting in a reduction of 4.5 ha of native vegetation clearing from 76 ha to 71.5 ha within a 200 ha development envelope (refer Schedule 1).*
- 2) *Amendments to the key characteristics of the proposal (refer Schedule 1).*

See attached updated key characteristics table and figure.

**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.



**Professor Matthew Tonts**  
**Delegate of the Environmental Protection Authority**  
CHAIR

1 September 2021

## Schedule 1

### Change to Proposal

**Table 1: Summary of the Proposal**

<b>Proposal title</b>	Bunbury Outer Ring Road Southern Section
<b>Proponent name</b>	The Commissioner for Main Roads Western Australia
<b>Short description</b>	The proposal is to extend the Bunbury Outer Ring Road, using freeway standard dual carriageway, from its intersection with South Western Highway to connect it with Bussell Highway. The proposal is located about 200 kilometres south of Perth, mainly within the Shire of Capel, and a small component within the City of Bunbury, in Western Australia.

**Table 2: Location and proposed extent of physical and operational elements**

<b>Proposal element</b>	<b>Location</b>	<b>Maximum extent or range</b>
<i>Physical elements</i>		
<b>Overall Proposal footprint (including all physical elements below)</b>	Proposal Development Envelope in Figure 1	The Proposal Area covers 200 ha. To implement Proposal, up to 71.5 ha of native vegetation will be cleared.
<b>Road construction and associated infrastructure</b>	Proposal Development Envelope in Figure 1	<p>The road construction and associated infrastructure for the Proposal includes the following components:</p> <ul style="list-style-type: none"><li>• Approximately 10.5 km of new rural freeway standard, dual carriageway</li><li>• Grade separation of Yalinda Drive across the highway</li><li>• A grade separated interchange at Bussell Highway</li><li>• Approximately 3 km of regional distributor (Centenary Road at Bussell Highway to Lilydale Road)</li><li>• A grade separated interchange at the western end of Lilydale Road</li></ul>

		<ul style="list-style-type: none"> <li>• A pedestrian underpass at Woods Road</li> <li>• Local road modifications</li> <li>• Utility modifications</li> <li>• A Principal Shared Path, including grade separated crossings of local roads and Bussell Highway and walk trails</li> <li>• Other road infrastructure and furniture including, but not limited to culverts, lighting, noise barriers, fencing, landscaping, road safety barriers, underpasses, rope bridges and signs.</li> </ul>
<b>Bridges and drainage infrastructure</b>	Proposal Development Envelope in Figure 1	<p>Bridge construction and associated infrastructure for the Proposal includes the following components:</p> <ul style="list-style-type: none"> <li>• New bridge, BORR over Centenary Road / Lilydale Road</li> <li>• New bridge, Yalinda Drive over BORR incorporating a fauna land bridge</li> <li>• New bridge, Bussell Highway southbound over BORR</li> <li>• New bridge, BORR over Five Mile Brook</li> <li>• New dedicated fauna bridge east of Yalinda Drive over BORR</li> <li>• Pedestrian Underpass at Woods Road</li> <li>• Drainage basins, drains and other associated infrastructure.</li> </ul>
<i>Operational elements</i>		

<b>Constructed BORR Southern Section</b>	Proposal Development Envelope in Figure 1	Main Roads will operate the Proposal including standard management and maintenance practices.
--	--	--

**Figure 1 – Proposal Development Envelope**





***Environmental Protection Act 1986***

**Section 43A**

**STATEMENT OF REASONS**

**CONSENT TO CHANGE PROPOSAL DURING ASSESSMENT**

**Proposal:** Bunbury Outer Ring Road (Southern Section)

**Proponent:** Main Roads WA

**Decision**

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

**Background**

On 16 June 2019, Main Roads Western Australia (the proponent) referred the Proposal to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* (EP Act). The Proposal is to construct and operate the southern section of the Bunbury Outer Ring Road (BORR). This includes 10.5 kilometres (km) of freeway-standard dual carriageway, 3 km of rural distributor roads, bridges and other associated road infrastructure between South Western Highway and Bussell Highway.

On 3 October 2019, the EPA determined to assess the Proposal at the level of Referral Information with Additional Information (8-week public review).

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 changing the Proposal.

The s43A change would result in a 4.5 ha reduction in native vegetation clearing - a decrease from 76 ha to 71.5 ha. The 200 ha development envelope remains unchanged; however, the proponent has established some areas within the development envelope where clearing and indirect impacts would be prohibited (Figure 1). The clearing exclusion areas contain conservation significant values, therefore the s43A change would also result in a reduction to direct impacts as follows:

- 60.9 ha of habitat for western ringtail possum (WRP) (down from 65.4 ha).
- 49 to 72 WRP individual home ranges (down from 53 to 79 WRP individual home ranges).
- 60.9 ha foraging / breeding habitat for black cockatoos (down from 65.4 ha).
- 1,088 DBH trees<sup>1</sup> (down from 1,098).

---

<sup>1</sup>trees with a diameter at breast height of greater than 500 millimetres and of specific species that have the potential to develop breeding hollows for black cockatoos including Carnaby's, Baudin's and forest red-tailed cockatoos.

- 11 DBH trees containing a suitable nest hollow for breeding of black cockatoos (down from 13 trees).
- 39.2 ha of BTP foraging / breeding habitat (down from 43.7 ha).
- 23.4 ha Banksia Woodlands of the Swan Coastal Plain Priority Ecological Community (Banksia Woodlands PEC) (down from 26.6 ha).

The proponent has also proposed changes to some construction elements including additional screen walls, pedestrian walk-trails, a pedestrian underpass and an overpass, additional fauna land-bridges and possum rope-bridges. The profile of the road is also proposed to be lowered through Gelorup to minimise visual and noise impacts. The reason for the changes is the result of EPA requests of the proponent to further minimise the proposed impacts to the critically endangered WRP and social impacts associated with loss of amenity and social connectivity.

### **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 proponent 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. The proponent's documented request to change proposal during assessment under section 43A (CMS17691)
2. Clarification emails supporting the proponents Request to Change the proposal via section 43A of the EP Act
3. Spatial data provided by the proponent
4. Supporting documentation for the proposal provided by the proponent at the time of referral and the public review.
5. EPA Guidance and procedures.

### **Consideration**

#### **1. Nature of the proposed change**

- a) Reducing the overall extent of native vegetation to be cleared.

The changes are the result of refinements to the design of the proposal to further minimise impacts. The proponent has achieved this by narrowing the road footprint and lowering the road profile through Gelorup and defining bushland areas within the development envelope where clearing would be avoided (Figure 1).

b) Amendments to the key characteristics of the proposal (Schedule 1).

The proponent has provided a revised key characteristics table describing the changes to the proposal and the reduction in vegetation clearing (Schedule 1).

Additional elements such as fauna land-bridges (Figure 2), and a pedestrian underpass (Figure 3) have been added to the key characteristics of the proposal. Fauna rope-bridges were not previously described in the key characteristics so have now been added to better describe the proposal elements.

The changes to the key characteristics table are highlighted with **bold text** in the attached key characteristics table (Schedule 1), and the clearing exclusion areas are illustrated in Figure 1.

2. Stage of the assessment process

On 19 October 2020, the EPA advertised the proponent's updated Referral Information (including Additional Information required by the EPA via section 40(2)(a) of the EP Act) for eight-weeks public review.

The EPA was in the process of undertaking its assessment of the proposal when the request to change the proposal was received.

On 6 September 2021, the EPA published the proponent Responses to Submissions and supplementary documentation of the proposed changes to the proposal.

The next step is for the EPA to commence the preparation of its Assessment Report. The EPA's target time to prepare, finalise and submit the Assessment Report to the Minister for Environment is 12 weeks from accepting the Response to Submissions.

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

All information submitted with the referral that has not been superseded by additional information, remains current, reliable and relevant. Additional environmental surveys undertaken since the referral of the proposal have been included in the calculations of the impacts from the changed proposal.

The proponent's Responses to Submissions documentation, and supplementary information about the proposed changes and associated reductions in impacts have also been considered in the EPA consent to change the proposal under section 43A.

4. Community engagement

The proponent has engaged widely with the community in relation to the original proposal, including engagement with government agencies, key stakeholders and targeted landholders through 2018. Monthly meetings with the Community Reference Group (Southern Alignment) have been held since July 2018 and Main Roads WA provides regular updates on the proposal via their website. The proponent has continued to consult with stakeholders since referral of the proposal; however, it is the EPA's understanding that consultation on the details of the proposed changes has yet to be undertaken.



The EPA notes that the proponent intends to undertake further consultation with the local community on the proposed changes.

Given the proposed changes would reduce the environmental impacts, the EPA considers that specific consultation on the changes to the proposal is not required in advance of its consent to the change the proposal. However, it should be noted that the proponent intends to undertake further community consultation on the proposal changes as soon as its possible and appropriate to do so.

#### 5. Level of public concern

The proposal is considered locally contentious with 998 submissions received upon closure of the public review period in December 2020. As public interest in the proposal is already high, the EPA does not consider that the proposed changes would result in any changes to the level of interest in the proposal.

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

The following were considered:

#### 1. Values, sensitivity and the quality of the environment which is likely to be impacted

The key environmental factors for the proposal are:

- Flora and Vegetation
- Terrestrial Fauna
- Inland Waters
- Social Surroundings

The proposed changes would not cause any additional factors to be considered.

The changes would result in decreased impacts to the environmental values of native vegetation, conservation significant fauna habitat and Banksia Woodlands PEC due to a reduction (by 4.5 ha) in vegetation clearing.

#### 2. Extent (intensity, duration, magnitude and geographic footprint) of the likely impacts

There are no changes to the duration, intensity or magnitude of the likely impacts. The 200 ha development envelope remains unchanged, however the extent of the clearing has been reduced by minimising the geographic footprint of the road, resulting in 4.5 ha less clearing.

The EPA considers that the resilience of the environment to cope with the proposal changes remains unchanged from that of the original proposal, should it be implemented.

### 3. Consequence of the likely impacts (or change)

The consequences of the likely impacts of the proposed changes on native vegetation, conservation significant species habitat and Banksia Woodlands PEC have decreased from those proposed in the original proposal.

The consequences of the likely impacts of the proposed changes on visual amenity has likely reduced due to some additional mitigation proposed to increase screen-walls and lowering of the profile of the road through Gelorup.

### 4. Resilience of the environment to cope with the impacts or change

If the proposal is implemented, the EPA considers that the resilience of the environment to cope with the changed proposal remains unchanged from that of the original proposal.

### 5. Cumulative impacts with other projects

Cumulative impacts will be considered in the EPA's assessment of the changed proposal. The decrease in the clearing extent of native vegetation, conservation significant species habitat and Banksia Woodlands PEC will not significantly change the cumulative impact of the proposal.

### 6. Connections and interactions between parts of the environment to inform holistic view of impacts of the whole environment

A holistic assessment of the changed proposal will be undertaken as part of the EPA's assessment of the proposal. Should the changed proposal be implemented, it is not expected to result in a significant change to the connections and interactions between the parts of the environment compared to the original proposal.

### 7. Level of confidence in the prediction of impacts and the success of proposed mitigation

The change to the proposal is unlikely to alter the level of confidence in the predicted impacts and/or the success of proposed mitigation compared to the original proposal. The EPA notes that the proponent has proposed additional mitigation by extending screen-walls, lowering the height profile of the road, increasing provisions for pedestrians/cyclists, increasing the quantity of fauna crossings and including fauna land-bridges that were not included in the original proposal. The likely success and effectiveness of the proposed mitigation will be considered by the EPA in its Assessment Report.

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

The EPA considers that the level of public interest in the proposal will remain high. The changes may attract additional interest from the local community which will be considered by the EPA in its Assessment Report.

**Conclusion**

In conclusion, the EPA considers that the change is unlikely to significantly increase any impact the proposal may have on Terrestrial Fauna, Flora and Vegetation, Inland Waters and Social Surroundings factors.

## Schedule 1

### Change to Proposal

Proposal element	Location	Referred extent (s.43A March 2021)	Proposed extent	Change
<i>Physical elements</i>				
<b>Overall Proposal footprint (including all physical elements below)</b>	Proposal Development Envelope in Figure 1	<p>Clearing or disturbance of up to 200 ha comprising approximately:</p> <ul style="list-style-type: none"> <li>• 76 ha of native vegetation</li> <li>• 124 ha of cleared and highly modified area (agricultural land and existing built infrastructure).</li> </ul>	The Proposal Area covers 200 ha. To implement Proposal, up to <b>71.5 ha</b> of native vegetation will be cleared.	<b>4.5 ha decrease</b>
<b>Road construction and associated infrastructure</b>	Proposal Development Envelope in Figure 1	<p>The road construction and associated infrastructure for the Proposal includes the following components:</p> <ul style="list-style-type: none"> <li>• Approximately 10.5 km of new rural freeway standard, dual carriageway</li> <li>• Grade separation of Yalinda Drive across the highway</li> <li>• A grade separated interchange at Bussell Highway</li> <li>• Approximately 3 km of</li> </ul>	<p>The road construction and associated infrastructure for the Proposal includes the following components:</p> <ul style="list-style-type: none"> <li>• Approximately 10.5 km of new rural freeway standard, dual carriageway</li> <li>• Grade separation of Yalinda Drive across the highway</li> <li>• A grade separated interchange at Bussell Highway</li> </ul>	<b>Inclusion of: A pedestrian underpass at Woods Road; walk trails; rope bridges</b>

		<p>regional distributor (Centenary Road at Bussell Highway to Lilydale Road)</p> <ul style="list-style-type: none"> <li>• A grade separated interchange at the western end of Lilydale Road</li> <li>• Local road modifications</li> <li>• Utility modifications</li> </ul> <p>A Principal Shared Path for the full length of the Proposal including grade separated crossings of local roads and Bussell Highway</p> <ul style="list-style-type: none"> <li>• Other road infrastructure and furniture including, but not limited to culverts, lighting, noise barriers, fencing, landscaping, road safety barriers, underpasses and signs.</li> </ul>	<ul style="list-style-type: none"> <li>• Approximately 3 km of regional distributor (Centenary Road at Bussell Highway to Lilydale Road)</li> <li>• A grade separated interchange at the western end of Lilydale Road</li> <li>• <b>A pedestrian underpass at Woods Road</b></li> <li>• Local road modifications</li> <li>• Utility modifications</li> <li>• A Principal Shared Path, including grade separated crossings of local roads and Bussell Highway and <b>walk trails</b></li> <li>• Other road infrastructure and furniture including, but not limited to culverts, lighting, noise barriers, fencing, landscaping, road safety barriers, underpasses, <b>rope bridges</b> and signs.</li> </ul>	
<b>Bridges and drainage infrastructure</b>	Proposal Development	Bridge construction and associated infrastructure for the Proposal includes the	Bridge construction and associated infrastructure for the	<b>Inclusion of: New dedicated fauna land-</b>

	Envelope in Figure 1	<p>following components:</p> <ul style="list-style-type: none"> <li>• New bridge, BORR over Centenary Road / Lilydale Road</li> <li>• New bridge, Yalinda Drive over BORR</li> <li>• New bridge, Bussell Highway southbound over BORR</li> <li>• New bridge, BORR over Five Mile Brook</li> <li>• Drainage basins, drains and other associated infrastructure</li> </ul>	<p>Proposal includes the following components:</p> <ul style="list-style-type: none"> <li>• New bridge, BORR over Centenary Road / Lilydale Road</li> <li>• New bridge, Yalinda Drive over BORR <b>incorporating a fauna land-bridge</b></li> <li>• New bridge, Bussell Highway southbound over BORR</li> <li>• New bridge, BORR over Five Mile Brook</li> <li>• <b>New dedicated fauna bridge east of Yalinda Drive over BORR</b></li> <li>• <b>Pedestrian Underpass at Woods Road</b></li> <li>• Drainage basins, drains and other associated infrastructure.</li> </ul>	<p><b>bridge east of Yalinda Drive over BORR; Pedestrian Underpass at Woods Road; expansion of Yalinda Dr bridge to incorporate a fauna land-bridge</b></p>
<i>Operational elements</i>				
<b>Constructed BORR Southern Section</b>	Proposal Development Envelope in Figure 1	Main Roads will operate the Proposal including standard management and maintenance practices.	Main Roads will operate the Proposal including standard management and maintenance practices.	<b>No change</b>



**Figure 1 – Proposal Development Envelope**





**Figure 2 – Terrestrial Fauna additional measures**

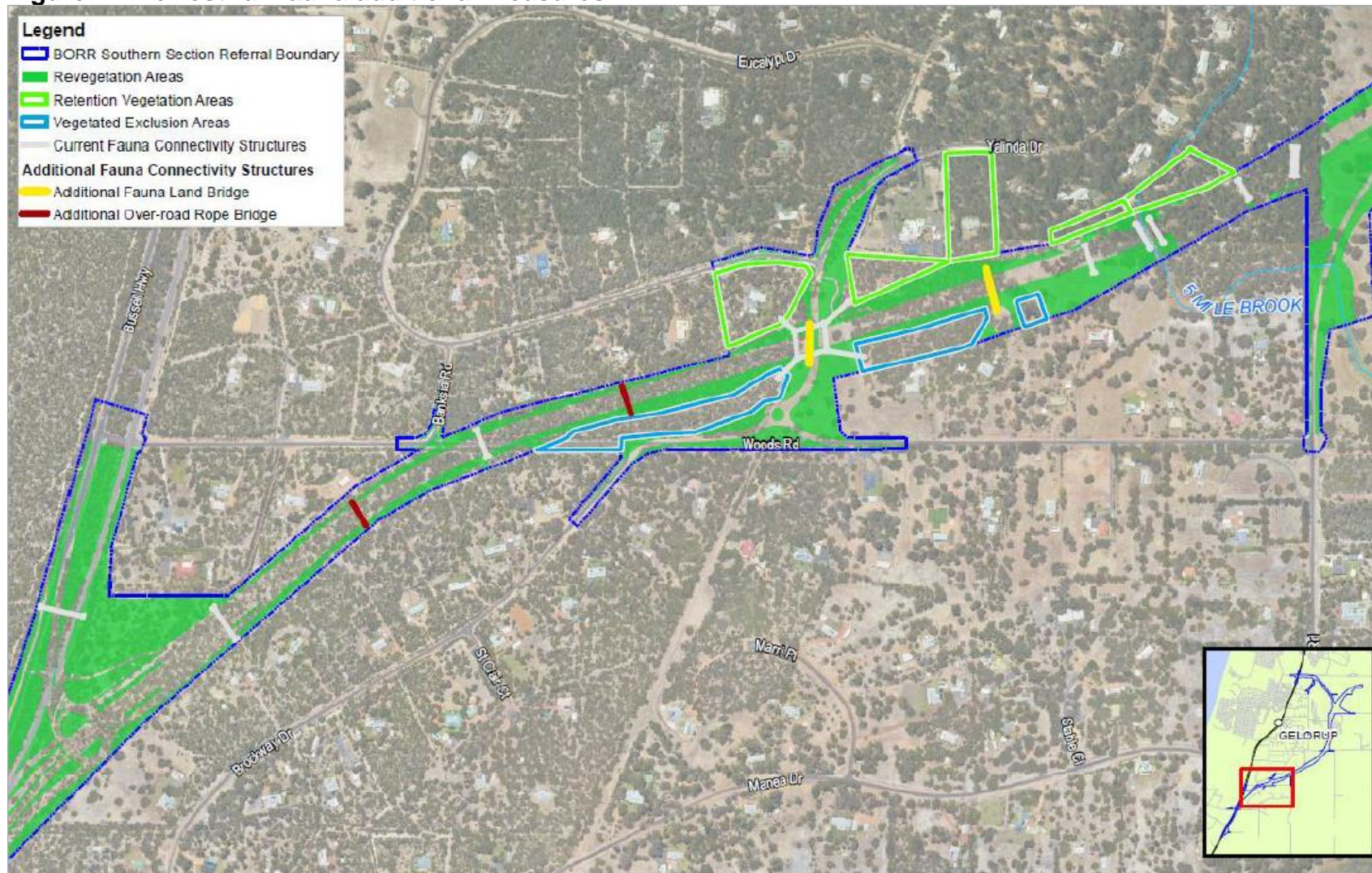




Figure 3 – Social Surroundings additional measures

