

Environmental Protection Act 1986

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 (ACN: 50 860 676 021)
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 consents to the proponent making the following changes to the proposal during assessment without a revised proposal being referred -

Amendments to the design, construction and alignment of the proposal resulting in a 100 hectare (ha) decrease in the development envelope from 300 ha to 200 ha (refer Schedule 1).

Amendments to the design, construction and alignment of the proposal resulting in a 22 hectare (ha) decrease in the native vegetation clearing footprint from up to 98 ha to up to 76ha (refer Schedule 1).

Amendments to the design, construction and alignment of the proposal resulting in a 21.8 hectare (ha) decrease in the conservation significant species habitat clearing footprint from up to 98 ha to up to 76.2 ha (refer Schedule 1).

EFFECT OF THIS NOTICE:

1. 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.



Tom Hatton
Delegate of the Environmental Protection Authority
CHAIRMAN

28 April 2020

Schedule 1

Changes to Proposal

| Element | Current Proposal | Changed Proposal (s43A) |
|--|--|--|
| Physical elements | | |
| Construction and operation of the southern section of the Bunbury Outer Ring Road (BORR). This includes 10.5 km of freeway-standard dual carriageway, 3 km of rural distributor roads, bridges and other associated road infrastructure between South Western Highway (north) and Bussell Highway (south). | Clearing and disturbance of up to 98 ha of native vegetation within a 300 ha development envelope. | Clearing and disturbance of up to 76 ha of native vegetation within a 200 ha 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 Environmental Protection Authority (EPA) has determined to consent to the Proponent changing the Proposal outlined in Schedule 1, attached to this Statement of Reasons.

I have also determined that no consultation or public review is necessary when considering the request to consent to the change. This is due to the nature of the changes, which would result in a decrease in the extent of the Proposal from that as described in the proponent's referral documentation. In addition, the proponent's supporting and additional information incorporating the changes will be published for an eight-week public review period and the changes to the Proposal will be fully assessed in the EPA's Report and Recommendations to the Minister for Environment, which will be subject to a two week appeal period.

Background

On 16 June 2019, Main Roads WA referred the Proposal to the 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 (north) and Bussell Highway (south).

The Proposal as referred included clearing of up to 98 hectares (ha) of native vegetation (including impacts to threatened ecological communities (TEC), priority ecological communities (PEC), three priority flora species and riparian vegetation). The Proposal as referred also included clearing of up to 98 ha of conservation significant species habitat.

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

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. The s43A change would result in a 100 ha decrease in the development envelope from 300 ha to 200 ha (Figure 1).

The proposed changes to the referred proposal decrease the extent of the development envelope during construction and operation. The primary reason for the change is to decrease the extent of the area of native vegetation and conservation significant species habitat within the development envelope potentially impacted by the proposal by considering alternative infrastructure design options.

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.

In considering the request for consent, the EPA considered the:

- details of the proposed change
- statement of the significance of the change
- 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 document (*EPA Assessment 2225, EPA Case CMS 17691: Request for Change to Proposal Under Section 43A of the Environmental Protection Act 1986 (WA)*, January 2020, Main Roads WA (Rev 1).
2. Spatial data provided by Main Roads WA showing the revised development envelope and revised flora and vegetation and conservation significant species habitat footprints.
3. Spatial data provided by the Main Roads WA at the time of referral showing the originally proposed development envelope and flora and vegetation and conservation significant species habitat footprints.
4. Supporting documentation for the proposal supplied by Main Roads WA at the time of referral: *Bunbury Outer Ring Road Southern Section EPA Environmental Referral Supporting Document*, September 2019, BORR Team (Rev 0).



Figure 1: Development envelope showing proposed changes

Consideration

1. Nature of the proposed change

The changes will result in an overall decrease in the extent of the development envelope from 300 ha to 200 ha. The key changes to the development envelope are decreases in the extent of the proposal by amending the form of interchanges, avoiding the need for bridge piers and abutments within watercourses and amending the road alignment.

As referred, the extent of native vegetation to be cleared was 98 ha. In the revised proposal, the extent of native vegetation proposed to be cleared has decreased to 76 ha.

As referred, the proposal will result in the clearing of up to 98 ha of conservation significant species habitat. In the revised proposal, the area of conservation significant species habitat to be cleared has decreased by 21.8 ha to 76.2 ha.

2. Stage of the assessment process

On 3 October 2019, the EPA set the level of assessment for the proposal as Referral Information with Additional Information (8 week public review). The EPA was awaiting the proponent's additional information when the request was made to change the proposal.

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

The proposal was referred to the EPA in October 2019 and all information submitted in support of the referral, not 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 revised proposal. Other additional information, as requested by the EPA, is to be provided in May 2020 and has not been considered by the EPA for this change in proposal.

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. The EPA is unaware whether the community has been engaged with regard to the proposed changes. The EPA intends to publish information on the proposed changes for public information as part of the assessment process.

5. Level of public concern

The EPA advertised the referral information for public comment from 20 September 2019 to 26 September 2019 (inclusive). Six hundred and sixty four (664) comments were received during the public comment period, a high level of public interest at referral stage. The majority of public submissions requested the proposal be assessed at the level of public environmental review. The EPA does not consider that the proposed changes would result in an increased 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:

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

Flora and Vegetation, Terrestrial Fauna, Terrestrial Environmental Quality, Inland Waters, Social Surroundings and Air Quality were considered to be preliminary key environmental factors at the time the Level of Assessment was determined. The proposed changes give no cause for additional environmental factors to be considered as the changes have the potential to impact on Flora and Vegetation and Terrestrial Fauna.

The majority of the changes will result in decreases in the potential impacts to the environmental values of native vegetation and conservation significant species habitat.

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

The proposed change to the development envelope is an overall decrease of 100 ha, from 300 ha to 200 ha.

The proposed changes include reductions and additions to the development envelope, with an overall decrease of 100 ha. The extent of the individual areas to be increased and decreased within the development envelope have not been provided by the proponent during this request for a change to the proposal. The proposed changes to the proposal will be included in the additional information requested by the EPA in October 2019 under s40(2)(a) of the EP Act. The proposed changes will be considered during the assessment of the proposal by the EPA.

The reduction of the development envelope area includes decreases in the extent of clearing of native vegetation and conservation significant species habitat. For this reason, the EPA supports the additions to the development envelope, to provide an overall decrease on impacts to the native vegetation and conservation significant species habitat.

- c) Consequence of the likely impacts (or change)
The consequences of the likely impacts of the proposed changes on native vegetation and conservation significant species habitat have decreased from those proposed in the original proposal.
- d) Resilience of the environment to cope with the impacts or change
The majority of the changes to the development envelope will result in the avoidance of impacts to environmental values and will retain areas of native vegetation and conservation significant species habitat, maintaining the resilience of these areas. The EPA considers that the resilience of the environment to cope with the changed proposal remains unchanged from that of the original proposal, should it be implemented.
- e) Cumulative impacts with other projects
Cumulative impacts will be considered in the assessment of the changed proposal as they were to be considered during the assessment of the original proposal. The decreases in the extent of native vegetation and conservation significant species habitat to be cleared is unlikely to significantly change the cumulative impact at a local or regional scale.
- f) 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 during the assessment stage of the proposal. The changed proposal is not expected to result in a change in impact to the ecological function and values of the area compared to what it would be if the original proposal were to be implemented.
- g) Level of confidence in the prediction of impacts and the success of proposed mitigation
There is no change in the level of confidence in the predicted impacts or the success of proposed mitigation as a result of the changes.
- h) 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 is of the opinion that public interest in the proposal will likely remain the same; that is, a high level of public interest and notes that the revised supporting document with additional information will be published for an eight week public review period.

Schedule 1

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