

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

Metropolitan Region Scheme Amendment 1410

Location: Part Lot 96 Starflower Road, Henley Brook

Determination: Scheme Not Assessed – Advice Given (not appealable)

Determination Published: 18 December 2023

Summary

The amendment proposes to transfer a 3.77 hectare (ha) portion of Lot 96 Starflower Road, Henley Brook from 'Public Purposes – Special Uses' reserve to the 'Urban' zone, to facilitate future residential development and related land uses. The proposed amendment area is located over lands previously reserved to facilitate the development of the Malaga to Ellenbrook rail works proposal.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the original referral documentation and additional information provided by the Western Australian Planning Commission (WAPC) to this amendment. Having considered this matter, the following advice is provided.

Environmental Factors

Having regard to the EPA's (2021) *Statement of Environmental Principles, Factors, Objectives and Aims of Environmental Impact Assessment*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Flora and vegetation
- Terrestrial fauna
- Inland waters

Advice and Recommendations regarding the Environmental Factors

Flora and vegetation, Terrestrial fauna

The amendment area contains some remnant vegetation described as open marri woodland in 'completely degraded' to 'degraded-good' condition but which provides habitat for threatened species of black cockatoo and priority listed quenda. Implementation of the amendment may result in the removal of remnant vegetation and potential fauna habitat to facilitate future residential development and related land uses.

The EPA notes that the land within the proposed amendment area is subject to an existing Ministerial Statement (MS 1156) for the Malaga to Ellenbrook Rail Works proposal, assessed by the EPA in Report 1690. The proposal identified lands within Lot 96 as Native Vegetation Retention Areas (NVRAs). Whilst implementation of Amendment 1410 may result in the disturbance and/or removal of vegetation within a NVRA identified in MS 1156, the EPA notes

- there are 10 separate patches of NVRAs identified in MS 1156, which were provided as part of the proposal mitigation measures, not a recommendation of the EPA

- the NVRA within the amendment area are generally degraded, relatively small and fragmented,

therefore the impacts are unlikely to be significant, and there is the potential for mitigation and retention of some values through future planning processes.

Furthermore, the MS 1156 conditions require that the Public Transport Authority (PTA) (the proponent) retains and manages the NVRAs to ensure that there are no negative impacts to the native vegetation within these areas attributable to the proposal, compared to the pre-construction baseline condition. Clearing of the vegetation for future development may affect the proponent's ability to fulfill the requirements of MS 1156. In view of this, an amendment to MS 1156 may be required to align MS 1156 with future development.

The EPA advises that any future schemes and/or proposals which propose development within NVRA areas may be considered significant, and will each be considered on their own merits.

The EPA also notes that the MRS amendment includes a proposal for a concurrent amendment to the City of Swan Local Planning Scheme 17 (LPS 17), to transfer the subject portion of Lot 96 to the 'Residential Development' zone. The provisions of LPS 17 require the preparation of a structure plan to guide any future subdivision and/or development, and to address environmental or planning issues within the 'Residential Development' zone. Should a concurrent amendment be pursued, the EPA recommends that the retention of threatened fauna habitat be prioritised as part of future structure planning and subdivision processes.

Inland waters

The amendment area is located within a priority 2 Public Drinking Water Source Area (PDWSA) of the Gnamara Underground Water Pollution Control Area. With reference to the Department of Water and Environmental Regulation's (DWER) [Water Quality Protection Note 25](#) (2021), the EPA notes that higher density urban or residential development is generally considered an incompatible land use within priority 2 PDWSAs.

Accordingly, in consideration of the potential impacts to the PDWSA, the EPA recommends that the implementation of the amendment is subject to appropriate water management planning at the local structure planning stage, in consultation with DWER.

Conclusion

The EPA concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors through existing and proposed planning controls. The EPA notes that further impacts may be mitigated through future planning requirements. The EPA recommends its advice is implemented to further mitigate potential impacts to the above factors.