

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

**Metropolitan Region Scheme Amendment 1395/57 – Rationalisation of Midland Brick
Landholdings**

Location: Pt Lots 23 and 72 Eveline Road, Middle Swan

Determination: Scheme Not Assessed – Advice Given (Not Appealable)

Determination Published: 25 November 2024

Summary

The Western Australian Planning Commission (WAPC) has initiated Amendment 1395/57 to the Metropolitan Region Scheme (MRS) to rezone land within Pt Lots 23 and 72 Eveline Road Middle Swan to enable a change in land use from the current brickworks to urban development. The proposed amendment area is 24.32 hectares (ha) and includes the following two components:

- Rezone 22.296ha from 'Rural' and 'Industrial' to 'Urban' to facilitate future residential development, public open space, and drainage.
- Reclassify 2.024ha from 'Rural' and 'Industrial' to 'Parks and Recreation' associated with a portion of land immediately adjacent to the Swan River foreshore.

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 as set out 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 scheme amendment documentation provided by the WAPC.

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 EIA*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Social surroundings
- Air quality
- Flora and vegetation
- Terrestrial fauna
- Inland waters
- Terrestrial environmental quality

Advice and Recommendations regarding Environmental Factors

The EPA considers that this amendment in itself would be unlikely to have a significant impact on the environment. However, several conflicting land use issues are raised by the amendment (in particular the issues of dust, noise and air quality) from the adjacent 'Industrial' zoned land and operating brickworks.

The EPA recommends that the future local scheme amendment, structure planning and subdivision design take into consideration the factor specific advice below. A concurrent local scheme amendment is not supported.

Social surroundings and Air quality

The existing Midland Brick brickworks operates across and adjacent to the proposed MRS amendment area under a Part V EP Act Licence L4511/1967/14. The brickworks within the amendment area will be decommissioned to enable residential development. The adjacent brickworks is proposed to continue operations.

Implementation of the scheme amendment may result in impacts on sensitive receptors, such as residential development, from the operating elements of the brickworks. Future residents may be impacted by reduced air quality, and noise, dust and odour emissions from the adjacent existing industrial land use.

The nitrogen oxide (NO_x) modelling assessment report provided with the amendment shows that the potential of NO_x emissions to contribute to exceedances of the National Environment Protection Measure ambient air criteria is low. It was noted that the assessment had some limitations as it did not consider upset conditions or cumulative impacts, however, the incremental risk of these is unlikely to materially change the outcome.

As part of structure planning the air quality studies for the amendment area should be updated in consultation with Department of Health to adequately identify and describe all non-prescribed emission sources, and with Department of Water and Environmental Regulation (DWER) to provide evidence to support any conclusions regarding emissions during potential upset conditions.

Information provided as part of the referral indicates that the future local scheme amendment will include text provisions to manage potential amenity impacts. The EPA expects that the future local planning scheme amendment and structure planning will consider buffer requirements to the future residential development that are consistent with the EPA's *Environmental Protection Guidance Statement No.3 Separation Distances Between Industrial and Sensitive Land Uses* and *State Planning Policy No. 4.1 – Industrial Interface* (SPP 4.1). The EPA expects that appropriate interfaces/transitional development will be considered within the buffer to the brickworks, and the EPA expects that these land uses would be appropriately zoned/reserved as part of the future local planning scheme.

Further planning controls can be captured through the subdivision process, including the setting of subdivision conditions and notifications on title.

The amendment area is situated under Perth Airport's flight paths and is affected by the 20-25 ANEF aircraft noise exposure contour. Future development should be consistent with *State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport*.

The amendment area is directly adjacent to the boundary of the registered Aboriginal Heritage Site 3536 'Swan River'. The EPA recommends appropriate consultation (further to that already undertaken), investigation and relevant management plans be undertaken prior to subsequent stages of planning to address potential impacts to Aboriginal heritage values. Future development should be consistent with the *Aboriginal Heritage Act 1972*.

Flora and vegetation and Terrestrial fauna

The amendment area has been largely cleared and developed, with the exception of an area of bushland adjacent to the south-eastern boundary of the existing brickworks operation, and

the foreshore vegetation between the brickworks and the Swan River. The area of foreshore vegetation within the proposed amendment area is also part of Bush Forever Site 302 and is proposed to be retained as 'Parks and Recreation'.

The amendment area contains 0.93 ha of 'Very Good' and 'Excellent' condition vegetation commensurate with the threatened ecological community (TEC) '*Corymbia calophylla* – *Xanthorrea preissii* woodlands and shrublands, Swan Coastal Plain' (floristic community type SCP3c). It also contains 0.71 ha of potential foraging habitat for three threatened black cockatoo species (Carnaby's black cockatoos, Baudin's black cockatoo and Forest red-tailed black cockatoos). A total of five potential black cockatoo habitat trees were recorded in the site, with three of these trees observed to contain potentially suitable nesting hollows. Department of Biodiversity, Conservation and Attractions (DBCA) mapping for black cockatoo habitat and TEC on and adjacent to the site differs from the site specific studies completed by the consultant. It is recommended DBCA be consulted during the structure planning process to ensure the accurate delineation and protection of any areas of TEC.

The EPA supports the information provided during the amendment referral which proposes the future local scheme amendment will include scheme text provisions to ensure that the TEC is identified (to the satisfaction of DBCA), retained, buffered and managed through the local scheme amendment. It is understood that the WAPC intends this will mean the TEC occurrence, which currently occurs on land in private ownership and zoned 'Industrial' pursuant to the MRS, will have a management framework agreed to facilitate the associated land being transferred to public ownership. The future local scheme text should incorporate the requirement for future buffers to and management of the TEC to consider ecological water requirements. The EPA notes and supports that the amendment proposes to retain the TEC as restricted POS as part of the future City of Swan Local Planning Scheme amendment and ultimately ceded and managed as a City of Swan reserve.

The proposed MRS amendment will include the foreshore (and associated black cockatoo habitat) in 'Parks and Recreation' reserve. The future structure plan for the amendment area should require the retention of potential fauna habitat trees outside of this reserve.

Future planning should have regard for the EPA's 2021 *Guidance for planning and development: Protection of naturally vegetated areas in urban and peri-urban areas*. Road layout, and fire, noise, and drainage management should all be managed through the planning process to minimise impact surrounding native vegetation.

Inland waters and Terrestrial environmental quality `

Implementation of the scheme amendment may result in changes to the local groundwater and surface water hydrology, quantity and quality and ultimately impact quality of water discharging to the Swan River.

The *Corymbia calophylla* – *Xanthorrhoea preissii* woodlands and shrublands 2000-2003, Interim Recovery Plan No 60 (English and Blyth 2000) notes hydrological changes is a threat to the TEC. Future development may have impacts to the TEC within the amendment area through changes to local hydrology.

A District Water Management Strategy (DMWS) has been prepared in support of the MRS amendment, and a biophysical assessment of the Swan River and associated foreshore was undertaken to inform the foreshore and buffer to future development edge, to be incorporated into the 'Parks and Recreation' reserve. A 50m buffer is proposed to be achieved from the edge of the Swan River Conservation Category Wetland to future residential lots, however this buffer will consist of a road reserve and Public Open Space (POS) as well as retained vegetation.

Future water management planning for the site should maintain or improve surface water and groundwater quality and consider the hydrological requirements of the surrounding environment (including the TEC), and consider appropriate buffers to the Swan River, to avoid and manage impacts to these values. A Foreshore Management Plan should be prepared as part of future stages of planning, in consultation with DWER and DBCA. A Construction Environment Management Plan is recommended to be prepared as part of future stages of planning to manage direct and indirect impacts (including erosion) to environmental values within and adjacent to the area from sources such as earthworks and vehicle movement. The EPA expects the future local scheme amendment will include scheme text provisions consistent with this advice.

The amendment is not considered likely to have a significant effect on inland waters, provided appropriate capture and treatment of stormwater during and post-development, and subject to an appropriate treatment response in the foreshore reserve post-development. Future water management plans should be endorsed by DWER and DBCA as applicable, to the satisfaction of the City. The amendment area is part of the Swan River Trust Development Control Area and is therefore subject to the provisions of the Swan and Canning Rivers Management Act 2006 and associated regulations.

Due to the historical industrial use (brick manufacturing) of the site, several contaminated sites investigations have been undertaken which have identified a number of known and potential sources of contamination, primarily due to historical fuel and oil storage. Concerns around potential contamination of the site should be addressed through remediation of the site in accordance with the *Contaminated Sites Act* (2003), for approval by an accredited Contaminated Sites Auditor and DWER.

Conclusion

The EPA notes the ability of future planning processes to assist in mitigating impacts and concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors. Future local planning scheme requirements, and other statutory processes are also able to manage potential impacts. The EPA recommends its advice is implemented to mitigate potential impacts to the environmental factors.