

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

Shire of Northam Local Planning Scheme 6 Amendment 19

Location: Lots 9000, 303 and 304 Chedaring Road, Wundowie

**Determination: Scheme Not Assessed – Advice Given (not appealable) Determination
Published: 9 September 2024 Summary**

The amendment proposes to rezone the subject site Lots 9000, 303 and 304 Chedaring Road, Wundowie (Figure 1) from 'Rural' to 'Rural Residential' and 'Environmental Conservation'. The amendment area (approximately 578 ha) has historically been utilised for agricultural education and research purposes.

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 if subject to the modified Scheme text in Attachment 1. The EPA has considered the original referral documentation, additional information provided by the Shire of Northam (the Shire), and information obtained through its own enquiries. The EPA's decision is based on the original referral documentation and additional information provided by the Shire to this amendment.

The proposed modified Scheme provisions and Schedule 7 (No. 31) in Attachment 1 have been a fundamental consideration for the EPA. These modifications reflect the application of the mitigation hierarchy to minimise potential effects to environmental values. Should these modifications not be incorporated into the Local Planning Scheme, the amendment as referred may result in the scheme having a significant effect on the environment values in the amendment area and necessitating referral of future proposals to the EPA.

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
- Social surroundings

Advice and Recommendations regarding the Environmental Factors

Flora and vegetation and Terrestrial fauna

The amendment area contains areas of significant remnant vegetation identified as *Eucalyptus marginata* (Jarrah) woodland, Wandoo-Powderbark woodland and *Casuarina obesa* shrubland over *Juncus acutus* sedgeland (around 30% of the amendment area) with the balance cleared as a result of agricultural activities.

The EPA advises that the ecological surveys undertaken do not fully meet the EPA's technical guidance for surveys but have been used as an indicator of values. The EPA notes that based on the ecological surveys completed, the woodland areas are recorded to be in 'Good' to 'Excellent' condition and no threatened or priority flora species were recorded. Vegetation representative of the Eucalypt Woodlands of the Western Australian Wheatbelt Priority Ecological Community (PEC) (state-listed Priority 3) and Threatened Ecological Community (TEC) (Critically Endangered under *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act)) was also identified.

The amendment area is located within the modelled distribution range for Carnaby's Cockatoo (*Zanda latirostris*), Baudin's Cockatoo (*Zanda baudinii*) and Forest Red-tailed Black-Cockatoo (*Calyptorhynchus banksii naso*). Remnant vegetation (woodland areas) provides medium to high quality foraging habitat for black cockatoos and there is recorded foraging evidence in these areas. The EPA notes that a black cockatoo habitat tree assessment has not been completed and that existing flora and vegetation assessment completed for the site indicates there are potential habitat/breeding trees within the amendment area (both inside and outside of the Environmental Conservation zones).

In the form originally referred, the amendment provides for rezoning of areas which facilitate the clearing of high quality, high value native vegetation and habitat for threatened fauna species and would likely have led to an EPA decision to assess the amendment.

Mitigation hierarchy

The EPA has considered the following:

1. To avoid and mitigate potential impacts from the amendment, the Shire has proposed amendment modifications, post referral to the EPA, to Clause 4.36 Development in 'Environmental Conservation' Zone and Schedule 7 Rural Residential Zones (No.31) conditions (Attachment 1). The proposed modifications provide additional protection for environmental values, and increased certainty that potential impacts to environmental values, if any, from future development will be minor. The EPA notes that without the proposed changes, subdivision and development may be permitted within the 'Environmental Conservation' zone which would necessitate the clearing of native vegetation, which may result in likely significant impacts and in the proposal needing to be referred to the EPA.
2. The modifications proposed are consistent with the original resolution and therefore the proposed modifications to scheme text and insertion to Schedule 7 (No. 31) can be part of the subsequent planning approval process (with the Shire and Western Australian Planning Commission/Department of Planning Lands and Heritage).

The EPA notes s.83A of the *Planning and Development Act 2005* (PD Act) provides the mechanism for the adoption of the modifications to the proposed scheme text (to reflect the list at Attachment 1). The EPA expects the s.83A process to facilitate the inclusion of the modified Scheme text and Schedule 7 (No.31) conditions to the amendment prior to public advertisement and finalisation. For example, the EPA notes that this approach was adopted for the recent modifications to the Shire of Augusta Margaret River Local Planning Scheme 2.

3. The land proposed to be zoned 'Rural Residential' will allow for future subdivision with a minimum lot size being 2 ha. The EPA advises that the retention of environmental values may necessitate lot sizes considerably larger than 2 ha to retain viable patches of remnant vegetation and avoid fragmentation and edge effects from building envelope, firebreaks and bushfire management requirements (i.e. Asset Protection Zones).
4. The EPA recommends consideration be given to the EPA's guidance for Protection of naturally vegetated areas in urban and peri-urban areas which may be applied to any clearing of native vegetation in WA. Section 9 of the guidance contains design guidance for planning and development and includes the importance of a) locating development on existing cleared land b) retaining large blocks of vegetation c) avoiding infrastructure in remnant vegetation and d) avoiding clearing in areas where this is likely to lead to degradation of the surrounding environment.

The EPA reminds proponents and decision makers of their obligations under Part IV of the EP Act to refer proposals (such as subdivisions) which appear likely, if implemented, to have a significant effect on the environment. Proponents may also have an obligation to refer proposals to the Department of Climate Change, Energy, the Environment and Water under the EPBC Act.

Inland waters and Social Surroundings

There are natural drainage lines across the amendment area and registered Aboriginal heritage sites outside the 'Environmental Conservation' Zones, one of which is associated with a wetland/natural depression area. The EPA advises that future planning needs to consider potential impacts to hydrological processes and water dependent vegetation. The EPA notes that heritage sites are likely to be managed by the *Aboriginal Heritage Act 1972* (AH Act 1972).

Conclusion

The EPA concludes the scheme amendment can be managed to meet the EPA's environmental objectives for the above factors through modifications to the proposed scheme text/provisions in particular, the proposed amended Clause 4.36 and Schedule 7 (No. 31) conditions (Attachment 1) and future environmental planning design (structure plan and subdivision lay out), planning requirements, and other statutory processes. The EPA recommends its advice is implemented to further mitigate potential impacts to the above factors.

Attachments

Figure 1 – Proposed rezoning.

Attachment 1 – Modified scheme text and Schedule 7 (No.31) conditions for inclusion of the Scheme.

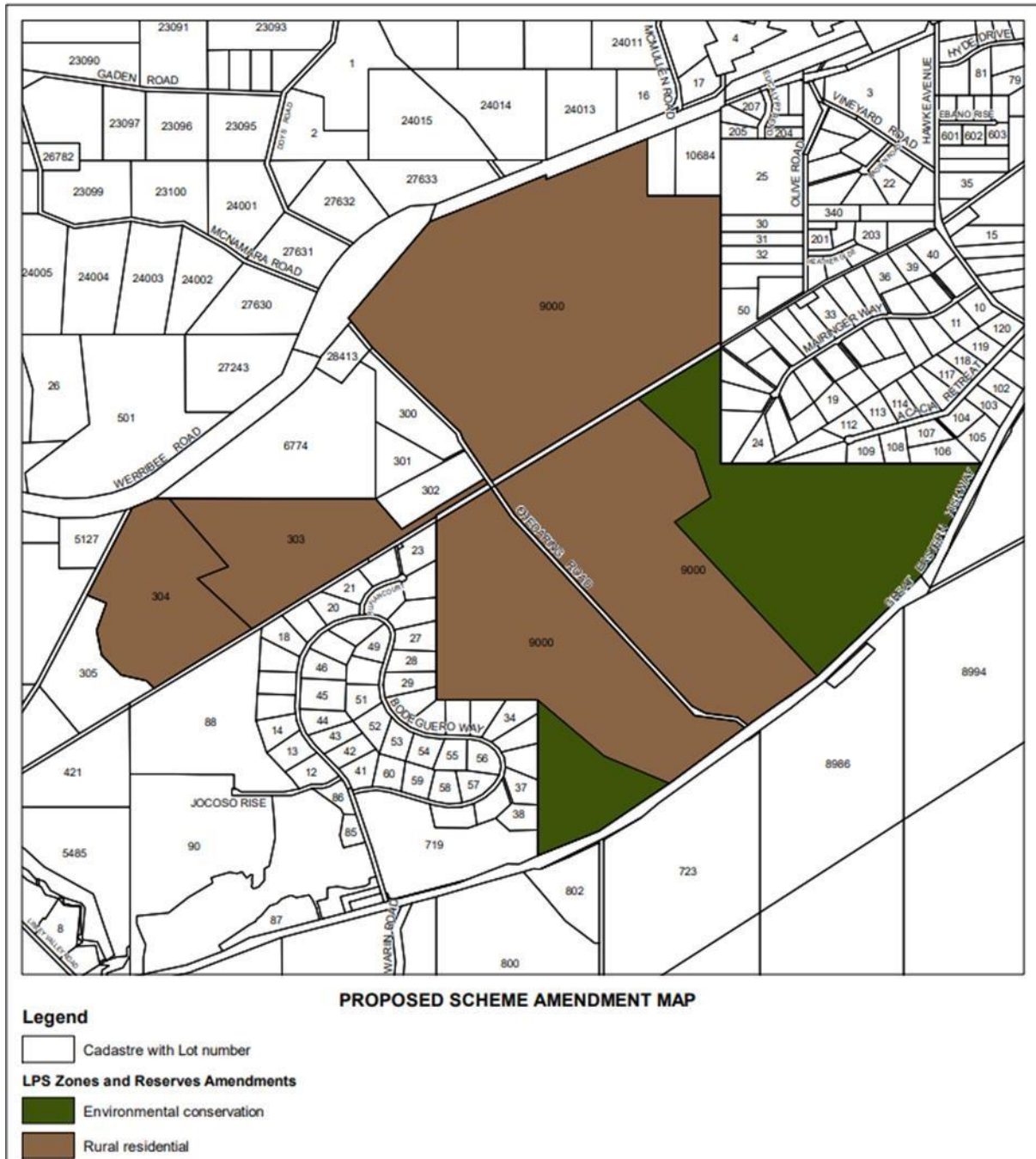


Figure 1: Proposed zoning under the LPS

Attachment 1: proposed modifications to amendment

CLAUSE 4.36 DEVELOPMENT IN ENVIRONMENTAL CONSERVATION ZONE

4.36.1 As required, adjustments to Environmental Conservation zone boundaries may be considered as ‘basic’ scheme amendments, subject to environmental surveys and supported by the agency responsible for biodiversity and conservation.

4.36.2 Subdivision of Environmental Conservation zones will generally not be supported.

4.36.3 Development within the Environmental Conservation zone is to be in accordance with the zone objectives and is not to disturb vegetation.

4.36.4 Where development is proposed that would affect Environmental Conservation zoned land, the proponent is to prepare an Environmental Management Plan at the time of structure planning, subdivision or development (as relevant), in consultation with the State government department responsible for biodiversity conservation. The plan is to be approved by the local government with arrangements made for the implementation of the approved plan. The Environmental Management Plan is to address the following:

- (i) protection and management of the environmental values of the zoned land;
- (ii) property boundaries, the location of the building envelope(s) and access arrangements, considering environmental and visual landscape impacts;
- (iii) fencing, fire management, weed control, rehabilitation and control of domestic pets; and
- (iv) any other matters relevant to the site, as recommended by the State or local government.

4.36.6 Development approval is required for all development within the Environmental Conservation zone.

SCHEDULE 7 – RURAL RESIDENTIAL ZONES

No.	Description of land	Conditions
31	«Contents»	1. Complete flora and vegetation and terrestrial fauna surveys consistent with EPA or other relevant technical guidance to identify conservation significant environmental values, including: <ul style="list-style-type: none"> a. Confirmation of areas containing vegetation representative of Eucalypt Woodlands of the

		<p>Western Australian Wheatbelt Priority Ecological Community</p> <ul style="list-style-type: none">b. Black cockatoo foraging habitat assessmentc. Black cockatoo nesting tree and hollow assessment <ol style="list-style-type: none">2. The structure plan shall include and set out the outcomes of items 1 in respect to avoidance (retention) and mitigation of potential impact to significant environmental values.3. Prior to subdivision an Environmental Management Plan (EMP) shall be prepared to the satisfaction of the Shire of Northam, in consultation with the State government department responsible for biodiversity conservation. The EMP shall address as a minimum:<ul style="list-style-type: none">a. outcomes of items 1 and 2 and actions to prevent and manage impacts of development on vegetation and fauna habitat identified for retention; andb. the management measures to ensure the habitat functions of these areas are maintained and, where possible, enhanced.4. Subdivision and development shall be generally in accordance with an approved Structure Plan.5. Minimum lot sizes shall be 2ha.6. In implementing the requirements of Item 2, lot sizes within RR31 may be larger than 4ha to accommodate the retention of environmental values or as site conditions require, as guided by an approved Structure Plan.
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