



Environmental Protection Authority

Chief Executive Officer
Shire of Gingin
PO Box 510
GINGIN WA 6503

Your Ref:
Our Ref: CMS15246
Enquiries: Teresa Bryant, 6145 0800
Email: Teresa.Bryant@epa.wa.gov.au

Dear Sir/Madam

DECISION UNDER SECTION 48A(1)(a) *Environmental Protection Act 1986*

SCHEME: Shire of Gingin - Local Planning Scheme 9 -
Amendment 16
LOCATION: Lot 2 on Plan 10531 Seabird Road Breton Bay
RESPONSIBLE AUTHORITY: Shire of Gingin
DECISION: Referral Examined, Preliminary Investigations
and Inquiries Conducted. Scheme Amendment
Not to be Assessed Under Part IV of EP Act.
Advice Given. (Not Appealable)

Thank you for referring the above proposed scheme to the Environmental Protection Authority (EPA).

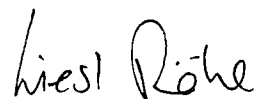
After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink that reads "Liesl Rohl". The signature is written in a cursive, slightly slanted style.

Liesl Rohl
A/Director
Strategic Policy and Planning Division

Delegate of the Chairman of the Environmental Protection Authority
Under Notice of Delegation No. 33 published 17 December 2013

23 December 2016

Encl. Scheme Advice and Recommendations

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

Shire of Gingin Local Planning Scheme 9 Amendment 16

Location: Lot 2 on Plan 10531 Breton Bay, Seabird

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

Determination Published: 23 December 2016

Summary

The Shire of Gingin proposes to rezone Lot 2 on Plan 10531 located 3km north of the Seabird Townsite, from General Rural to Tourism.

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 environmental impacts of the scheme amendment are not so significant as to warrant formal assessment under Part IV of the EP Act, providing the following advice is implemented.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- a) Flora and vegetation and Terrestrial fauna; and
- b) Social Surroundings.

2. Advice and Recommendations regarding Environmental Factors

The EPA notes the Shire of Gingin's referral documentation included the scheme amendment report, concept plan, environmental surveys, and water, bushfire, coastal and engineering investigations. The EPA examined the referral documentation, conducted investigations and consulted with the Shire and landowner's environmental consultants. Subsequently the EPA has decided not to assess the scheme amendment and expects that the environmental factors described below will be addressed through the planning process.

The EPA also notes development within the amendment area may require referral to the Department of the Environment and Energy.

a. Flora and vegetation and Terrestrial fauna

The EPA objective for these factors is to protect flora and vegetation and terrestrial fauna so that biological diversity and ecological integrity are maintained.

A survey undertaken by Emerge Associates in 2015 identified the vegetation in the amendment area as being in Excellent and Very Good condition with occurrences of Threatened and Priority Ecological Communities and Declared Rare and Priority Flora.

The Threatened Ecological Community Floristic Community Type (FCT) 26a *Melaleuca huegellii* – *Melaleuca acerosa* shrublands of limestone ridges, is listed by the State as Endangered. Priority Ecological Communities FCT 24, 28, 29a and 29b also occur throughout the amendment area. FCT 24 and 28 are considered to meet the criteria for the *Banksia Woodlands of the Swan Coastal Plain* community recently listed as Endangered pursuant to Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

One individual of the threatened species *Chorizema varium* was identified within the northern portion of the amendment area and a significant population of the species was mapped in the coastal foreshore, outside the amendment area.

A Fauna Assessment including a targeted assessment for Black Cockatoo habitat undertaken by Greg Harewood (2016), identified areas of vegetation as Carnaby's Black Cockatoos foraging habitat and evidence of the Southern Brown Bandicoot (Priority 4). Carnaby's Black Cockatoos are listed as 'rare or likely to become extinct' pursuant to the *Western Australian Wildlife Conservation Act 1950* and Endangered under the EPBC Act. Proponents are reminded of their obligations under the EPBC Act to refer actions that may have significant impact on Black Cockatoos.

The EPA understands the Shires consideration for initiating the amendment included provisions limiting the density, scale and nature of development and requirements to identify and manage the environmental values. Whilst the provisions provide a degree of protection, the EPA does not consider them sufficient to protect the significant environmental values identified in the amendment area.

To address these concerns the landowner proposed an additional provision identifying a 'Tourism Development' precinct and 'Conservation' precinct (Figure 1). The EPA considers the provision, (Attachment 1), satisfactory to address its concerns.

Additional flora and vegetation surveys targeting the proposed development area were undertaken which confirmed the vegetation types and no additional individuals of *Chorizema varium* were identified.

The EPA recommends the Conservation Management Strategy required for structure planning includes measures to protect and manage the population of *Chorizema varium* located adjacent to the amendment area.

c) Social Surroundings - Amenity.

The EPA objective for this factor is to protect social surroundings from significant harm.

The EPA notes the preferred approach for the disposal of wastewater has not yet been determined and is expected to be formulated during structure planning. The options include ATU's, settlement and evaporation ponds and a treatment plant using reverse osmosis.

The EPA advises that evaluation of the preferred treatment method should consider amenity - visual and odour, and the need for buffers. The location and footprint of the facility may also have implications for vegetation retention.

The EPA has not considered the need for a wastewater treatment in its consideration of the amendment. The Shire (as a decision-making authority) is reminded of its obligation to refer any proposal that is likely to have a significant environmental impact to the EPA for a decision as to whether the environmental impacts are significant enough to warrant assessment by the Authority.

Recommendation

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives, through the implementation of the proposed scheme provisions (attached) and through the subsequent stages of planning to manage and protect the identified environmental factors of Flora and vegetation, Terrestrial fauna and Social Surroundings.



Figure 1

Planning and Development Act 2005

Resolution to Adopt Amendment to Local Planning Scheme

Shire of Gingin Local Planning Scheme No. 9
Amendment no. 16

Resolved that the Shire of Gingin, pursuant to section 72 of the Planning and Development Act 2005, amend the above Local Planning Scheme by:

1. Rezoning Lot 2 on Plan 10531, Breton Bay from 'General Rural' zone to 'Tourism' zone.
2. Amending Part 4 – General Development Requirements, by including the following:
 - 4.8.7.13 Tourism conditions applicable to specific parcels of land to which the Scheme is subject, or will be through future amendments, are incorporated into the Scheme by Schedule 10 of the Scheme.
3. Including a new Schedule 10 – Tourism Conditions, with the following provisions:

Amendment no.	Gazetted Date	Tourism Conditions
Amendment no 16 to LPS9 – whole of lot 2 on Plan 10531		<ol style="list-style-type: none"> 1. Subdivision and development shall generally be in accordance with an approved Local Structure Plan or any variations as approved by the Shire of Gingin and the Western Australian Planning Commission. 2. The Local Structure Plan will: <ol style="list-style-type: none"> a. Require integrated facilities that promote visitor and resident interaction to be identified and established in the first stage of development to the satisfaction of the Shire of Gingin. b. Establish the primary tourism function of the site to the satisfaction of the Shire of Gingin. c. Ensure that the density, scale, and nature of all development has due regard to the landscape and environmental value of the area to the satisfaction of the Shire of Gingin. 3. The Local Structure Plan and any future proposed development will be reflective of a 'Tourism Development' precinct and a 'Conservation' precinct within the site, the boundaries of which are shown in the map at Condition 11 of this Schedule. <ol style="list-style-type: none"> a. Within the 'Tourism Development' precinct: <ol style="list-style-type: none"> i. The primary objective is to facilitate the construction of built form associated with tourism development and associated facilities and infrastructure. This includes, but is not limited to, caravan parks, residential strata lots, resort facilities, the primary internal road and path network, services, wastewater treatment infrastructure and other ancillary infrastructure, and any associated bushfire management requirements that may necessitate the modification and/or management of vegetation. ii. Development should be located to avoid impacts to vegetation representative of the Commonwealth listed 'Banksia Woodlands of the Swan Coastal Plain' Threatened Ecological Community (TEC) where possible. However, it is acknowledged that some development disturbance is likely to be required in these areas and measures should be taken to minimise impacts on the TEC in such cases. This development disturbance may include, but is not limited to, road alignments, servicing or wastewater treatment infrastructure. iii. The extent of development and the associated clearing of remnant vegetation should not exceed 50% of the total area of the 'Tourism Development' precinct. b. Within the 'Conservation' precinct: <ol style="list-style-type: none"> i. The primary objective is to retain significant environmental values through avoiding the clearing of remnant vegetation and future management of the remaining vegetation to ensure its ongoing viability. Values are specifically defined as remnant vegetation generally and including occurrences of Threatened Ecological Communities within the site, as shown in the Environmental Assessment and Justification Report (Emerge Associates 2016) of the Scheme Amendment Request Report. This includes areas of both State listed Floristic Community Type 26a and Commonwealth listed Banksia Woodlands of the Swan Coastal Plain.

Scheme Amendment – Lot 2 on Plan 10531, Breton Bay

		<ul style="list-style-type: none"> ii. Built form and facilities associated with tourism development, as defined above, will not be permitted in this precinct. The exceptions to this are the use of existing cleared tracks for access, the installation of controlled hiking trails and boardwalks, and the maintenance of property boundary firebreaks. iii. Measures should be taken to minimise any impact to all environmental values within this precinct and to maintain values in the long term. <ol style="list-style-type: none"> 4. Prior to the adoption of the Local Structure Plan a Coastal Hazard Adaptation and Management Plan is to be prepared in accordance with State Planning Policy. 5. Prior to the adoption of the Local Structure Plan, a Local Water Management Strategy shall be prepared to the satisfaction of the Department of Water. 6. Prior to adoption of the Local Structure Plan, a Bushfire Management Plan shall be prepared and is to be implemented as part of subdivision and/or development works to the satisfaction of the Shire of Gingin and the Department of Fire and Emergency Services. 7. Prior to the adoption of the Local Structure Plan, a Conservation Management Strategy shall be prepared to the satisfaction of the Shire of Gingin on advice from the Department of Parks and Wildlife. The Conservation Management Strategy shall: <ul style="list-style-type: none"> a. Identify the environmental values and attributes of the site (across all precincts); and b. Outline how the environmental values and attributes of the site have been considered by the Local Structure Plan, with specific regard to Condition 3; and c. Identify the management objectives for the identified environmental values and attributes of the site, to be implemented through a future Conservation Management Plan. 8. Prior to the commencement of subdivision or development works, a Conservation Management Plan shall be prepared to the satisfaction of the Shire of Gingin. The Conservation Management Plan shall be consistent with the Conservation Management Strategy and shall: <ul style="list-style-type: none"> a. Identify the environmental values and attributes of the site which require ongoing management; and b. Outline the specific management actions to be implemented to meet the management objectives outlined in the Conservation Management Strategy. c. Be implemented as part of ongoing tourism land uses within the site. 9. Prior to the commencement of subdivision or development works, a foreshore Management Plan shall be prepared to the satisfaction of the Shire of Gingin. 10. Prior to the commencement of subdivision or development works, Construction and Environmental Management Plan/s shall be prepared to the satisfaction of the Shire of Gingin. The Construction and Environmental Management Plan/s will outline the construction management actions to be implemented and should be consistent with the management actions identified in the Conservation Management Plan. <p><i>Continues on next page</i></p>
--	--	---