



Environmental Protection Authority

Chief Executive Officer
City of Mandurah
PO Box 210
MANDURAH WA 6210

Our Ref: CMS17192
Enquiries: Steve Pavey, 6364 7259
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Dear Sir/Madam

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

SCHEME AMENDMENT: City of Mandurah Local Planning Scheme No. 3
Amendment 137
LOCATION: Lot 21 Southern Estuary Road and Portion of Lot 7
Dunkeld Road, Herron
RESPONSIBLE AUTHORITY: City of Mandurah
DECISION: Scheme Amendment Incapable of Being Made
Environmentally Acceptable Under Part IV of EP
Act. (Not Appealable)

Thank you for your correspondence received 24 August 2017 referring the above scheme amendment to the Environmental Protection Authority (EPA) and providing a response to my Notice dated 17 April 2018.

Taking your correspondence into consideration as well as advice provided to the EPA by the Department of Biodiversity, Conservation and Attractions, the EPA has determined under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) that the scheme is incapable of being made environmentally acceptable. The EPA's full reasons for its determination are set out in the enclosed Statement of Reasons.

Please note that there is no right of appeal against the EPA's determination that the scheme amendment is incapable of being made environmentally acceptable.

Yours sincerely

Tom Hatton
CHAIRMAN

28 March 2019

Encl: Statement of Reasons

**City of Mandurah
Local Planning Scheme 3
Scheme Amendment 137**

STATEMENT OF REASONS AND ADVICE

Scheme Amendment 137

On 24 August 2017 the City of Mandurah referred Local Planning Scheme (LPS) 3 Amendment 137 to the Environmental Protection Authority (EPA). Amendment 137 proposes to rezone approximately 101 hectares (ha) of land on Lot 21 Southern Estuary Road and a portion of Lot 7 Dunkeld Drive, Herron from the Rural zone to the Rural Residential zone. The purpose of the scheme amendment is to facilitate rural residential development across the amendment area.

Considerations

The amendment area contains the following environmental values:

- Confirmed foraging habitat and potential breeding habitat for three species of black cockatoo - Carnaby's Black Cockatoo, Baudin's Black Cockatoo and the Forest Red-tail Black Cockatoo. These species are listed as Endangered and Vulnerable under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) and *Wildlife Conservation Act 1950* (WC Act);
- Habitat for Western Ringtail Possums which are known to be present on a lot immediately to the east of the amendment area. This species is listed as Critically Endangered under the EPBC Act and the WC Act;
- Ecological linkages for terrestrial fauna, both at regional and local levels which traverse Lot 21 in a north-south direction and an east-west direction;
- Vegetation units consistent with the Commonwealth listed Threatened Ecological Community (TEC) Banksia woodlands of the Swan Coastal Plain listed as Endangered under the EPBC Act and the proposed TEC Tuart woodlands of the Swan Coastal Plain;
- Approximately 1.5 ha of the TEC - FCT26a *Melaleuca huegelii* – *Melaleuca systena* shrublands of limestone ridges listed by the Western Australian Minister for the Environment as Endangered; and,
- Proximity to Lake Clifton and within the lake's catchment. Lake Clifton is a Ramsar wetland and highly sensitive to decreasing groundwater inflows which affect the lake's salinity and nutrient concentrations. There is no reticulated water supply to the amendment area and very limited groundwater may be available. Rural residential development increases the risk of extraction of groundwater, especially for the purposes of watering stock and domestic use. The extraction of groundwater for these purposes does not require a licence.

Included with the referral documentation was a subdivision guide plan indicating the intention to subdivide and develop 16 rural residential lots of approximately 6 ha each across Lot 21. Subdivision and rural residential development require the clearing of vegetation for dwellings, bushfire protection and roads.

On 14 September 2017, the EPA wrote to the City of Mandurah requesting plans indicating areas expected to be cleared for development and bushfire mitigation.

In response the City of Mandurah provided plans indicating a minimum of 20 to 25 ha of vegetation would be required to be cleared.

On 17 April 2018, the EPA notified the City of Mandurah of its intention to determine the scheme amendment is by its nature incapable of being made environmentally acceptable. The EPA outlined the above environmental values and the expected impacts of the proposed future development. In the interests of providing an opportunity for natural justice, the EPA invited the City of Mandurah to respond to its concerns.

The City of Mandurah provided a written response on 8 March 2019 which the EPA considered in making its determination. The City of Mandurah provided an alternative subdivision guide plan which proposes reducing the size of the 16 rural residential lots to 2 ha and ceding approximately half the amendment area for conservation. The 2 ha lots are clustered where vegetation is mapped as black cockatoo habitat and in 'very good' and 'very good to good' condition.

The scheme amendment to rezone the whole of Lot 21 and the portion of Lot 7 for rural residential uses is not proposed to be amended and remains the same as when first referred to the EPA. No new information has been provided which demonstrates that Amendment 137 will appropriately manage and mitigate impacts to the environment.

EPA Determination

Amendment 137 proposes to zone approximately 101 ha of land with significant environmental values to the Rural Residential zone. The EPA considers that clearing and fragmentation of remnant native vegetation mapped as black cockatoo habitat, and/or the Banksia woodlands TEC, is significant given the proximity of known black cockatoo roosts and breeding sites.

On this basis the EPA has concluded that the scheme amendment, if implemented and the amendment area developed for rural residential land uses as proposed by either of the subdivision guide plans, is likely to have a significant impact on the environment.

Accordingly, the EPA has determined that Scheme Amendment 137 is incapable of being made environmentally acceptable.

Other Advice

The EPA advises that any future scheme amendment for this area should consider impacts to environmental values and include clear and enforceable scheme provisions regarding the management and mitigation of impacts to these values.

The EPA also advises that any future scheme amendment for this area and in the wider City of Mandurah local government area should avoid clearing remnant native vegetation mapped as endangered or threatened fauna habitat given the importance of this habitat.