

Mr Carl Askew  
Chief Executive Officer  
Town of Port Hedland  
PO Box 41  
**PORT HEDLAND WA 6721**

Our Ref: CMS 17726  
Enquiries: Renee Blandin, 6364 6786  
Email: [Renee.Blandin@dwer.wa.gov.au](mailto:Renee.Blandin@dwer.wa.gov.au)

Dear Mr Askew

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

<b>SCHEME</b>	<b>Town of Port Hedland Local Planning Scheme 7</b>
<b>LOCATION</b>	<b>Whole of Town of Port Hedland local government area</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Town of Port Hedland</b>
<b>DECISION</b>	<b>Referred Examined, Preliminary Investigations and Inquires Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)</b>

Thank you for referring the above 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. I have also attached a copy of the Chairman's determination of the scheme.

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 the Chairman's determination, 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, appearing to read 'A. Sutton', with a horizontal line drawn through the middle of the signature.

**Anthony Sutton**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

15 June 2020

Encl. Chairman's Determination  
Scheme Advice and Recommendations

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

**Town of Port Hedland Local Planning Scheme 7**

**Location: Town of Port Hedland**

**Determination: Scheme Not Assessed – Advice Given (no appeals)**

**Determination Published: 15 June 2020**

**Summary**

The Town of Port Hedland has initiated Local Planning Scheme 7 (LPS 7) to replace the existing Town Planning Scheme 5. The new scheme proposes to bring the zone and reserve designations into alignment with the *Planning and Development (Local Planning Schemes) Regulations 2015*, and includes a number of changes including new zones, rezonings, text updates, scheme provision amendments, additional uses and the introduction of new and updating of existing Special Control Areas.

The Environmental Protection Authority (EPA) has considered the scheme in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers LPS 7 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 documentation provided by the Town of Port Hedland. Having considered this matter the following advice is provided.

**1. Environmental Factors**

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

- Marine Fauna
- Social Surroundings

**2. Advice and Recommendations regarding Environmental Factors**

**Marine Fauna**

The Town of Port Hedland coastline provides habitat for marine turtles. Cemetery Beach and Pretty Pool Beach are known Flatback turtle nesting beaches. Flatback turtles are listed as 'Vulnerable' under both the *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999*.

Flatback turtle nesting and hatchling behaviour can be affected by light spill and light glow on to nesting beaches and the adjacent sea.

The following lots are proposed for zoning changes and potential future development in LPS 7, and are located in areas with the potential for light spill on to Cemetery Beach and Pretty Pool Beach.

- Lots 1227 and 2 Dempster Street;
- Lot 1732, Lot 1444 and Lot 556 Athol Street; and
- Lot 841 Sutherland Street.

The EPA supports the inclusion of additional scheme provisions which require future development of the above lots to be in accordance with *Environmental Assessment Guideline No. 5 Protecting Marine Turtles from Light Impacts* (EPA 2010) and *Commonwealth Light Pollution Guidelines for Wildlife – Including Marine Turtles, Seabirds and Migratory Shore birds* (Department of the Environment and Energy and Department of Biodiversity, Conservation and Attractions, 2020).

### **Social Surroundings**

Potential noise, dust and odour impacts from industrial land uses and port operations is an ongoing issue for sensitive land uses in Port Hedland, especially in the West End. The State government has instigated the introduction of the West End Improvement Scheme No.1 in order to avoid and manage impacts on social surroundings from port operations. The West End Improvement Scheme No.1 is available for public comment until 3 July 2020.

LPS 7 does not apply to land that is part of the West End Improvement Scheme No.1. However, given the dynamic nature of port operations, the impacts of dust, noise and odour on sensitive land uses should be considered by the Town of Port Hedland when deciding to initiate proposed scheme amendments and assess development applications.

Consistent with the *Port Hedland Dust Management Taskforce Report to Government* (Department of State Development, 2016) and advice from the Department of Water and Environmental Regulation, the EPA supports the approach being taken to limiting residential density in the area between Taplin Street and McGregor Street. The EPA recommends no new sensitive land uses are permitted in this area other than short term accommodation and residential developments that satisfy the low density (R30) specifications of the proposed scheme.

Lot 226 Sutherland Street is currently developed as a school site and is proposed to be rezoned from the 'Community - Education' zone to the 'Private Institution' zone. The EPA supports the Town of Port Hedland's listing of Child Care Premises as a prohibited land use within this zone.

### **Conclusion**

The EPA concludes the scheme can be managed to meet the EPA's environmental objectives through existing planning controls and proposed scheme provisions. The EPA recommends its advice is implemented to avoid and mitigate potential impacts to Marine Fauna and Social Surroundings. In instances where the Town of Port Hedland believes there may be significant environmental issues raised by a proposal, the Town of Port Hedland should refer the proposal to the EPA pursuant to Part IV of the EP Act.