



Environmental Protection Authority

Mr Mike Archer
Chief Executive Officer
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

Our Ref: CMS17780
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Dear Mr Archer

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

SCHEME: City of Busselton Local Planning Scheme 21
Amendment 45
LOCATION: Lot 30 Millbrook Road, Yallingup
RESPONSIBLE AUTHORITY: City of Busselton
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. 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



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

12 March 2020

Encl. Scheme Advice and Recommendations
Chairman's Determination

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

City of Busselton Local Planning Scheme No. 21 Amendment No. 45

Location: Lot 30 Millbrook Road Yallingup

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

Determination Published: 16 March 2020

Summary

Amendment 45 proposes to remove Additional Use 52 from the 'Rural residential' zoned Lot 30 Millbrook Road, Yallingup and introduce Special Provision 71 (SP 71) to include a number of additional 'A' uses to a portion of the lot.

SP 71 proposes the following land uses to be included as 'A' uses: Art Gallery, Brewery, Chalet, Exhibition Centre, Hotel, Reception Centre, Rural Holiday Resort, Small Bar, Tavern, Tourist Accommodation and Winery. SP 71 also includes provisions restricting the allowable net leasable area.

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. The EPA has based its decision on the documentation provided by the City and having considered this matter, the following advice is provided.

Environmental Factors

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

- Flora and Vegetation;
- Terrestrial Fauna;
- Inland Waters; and
- Social Surroundings.

Advice and Recommendations regarding Environmental Factors

Flora and Vegetation and Terrestrial Fauna

The amendment area is mapped as containing Wilyabrup Vegetation complex W2 (open forest of *Corymbia calophylla* (marri) – *Allocasuarina decussate* (karri) – *Agonis flexuosa* (peppermint/willow myrtle)) and Ww2 (tall open forest of *Corymbia calophylla* - *Agonis flexuosa*).

W2 and Ww2 provide Western Ringtail Possum (WRP) habitat. The WRP is listed as Critically Endangered under the *Environment Protection and Biodiversity Conservation Act 1999* and *Biodiversity Conservation Act 2016*.

The proposed structure plan identifies areas of remnant vegetation as development exclusion areas. The EPA supports the proposed retention of native vegetation as described in the amendment report and as shown in the proposed structure plan. Retention and protection of the environmental values of the vegetation/fauna habitat should be consistent with the guidelines described in EPA Environmental Protection Bulletin No. 20 *Protection of naturally vegetated areas through planning and development*.

Inland Waters

Development of a portion of Lot 30 for the proposed additional land uses has the potential to impact groundwater and surface water quality and hydrology, including through nutrient run off and effluent disposal. This impact can be managed through retention of vegetation, implementation of appropriate buffers, implementation of water management planning for the site as required by structure planning, and adherence with relevant agency guidelines.

Gunyugup Brook runs along the north east of Lot 30, and a creek line runs along the northern boundary of Lot 30. The brook and creek are lined with riparian vegetation. Retention of the values of the waterways and riparian vegetation is supported as part of the finalisation of future structure planning and subdivision of Lot 30.

Social Surroundings

The proposed land uses have the potential to emit noise which may have an amenity impact on the surrounding rural residential land use.

It is noted that future planning processes will be required to comply with the *Environmental Protection (Noise) Regulations 1997*.

Conclusion

The EPA concludes that the scheme amendment can be managed to meet the EPA's environmental objectives through existing planning controls within the scheme. The EPA supports and recommends:

- retention, protection and management of Western Ringtail Possum habitat and water courses, including buffer requirements, through the future stages of planning;
- development and implementation of water management strategies through the future stages of planning; and
- compliance with *Environmental Protection (Noise) Regulations 1997*.