

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

Our Ref: CMS 17849
Enquiries: Steve Pavey, 6364 7259
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Dear Mr Askew

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

SCHEME	Town of Port Hedland Local Planning Scheme 5 Amendment 84
LOCATION	Land bound by Styles Road, Pretty Pool Creek and Cooke Point Road, Port Hedland
RESPONSIBLE AUTHORITY	Town of Port Hedland
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 scheme to the Environmental Protection Authority (EPA).

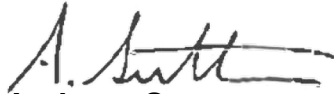
After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the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

27 July 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 5 Amendment 84

Location: Land bound by Styles Road, Pretty Pool Creek and Cooke Point Road, Port Hedland

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

Determination Published: 27 July 2020

Summary

The Town of Port Hedland proposes to reclassify and rezone land bound by Styles Road, Pretty Pool Creek and Cooke Point Road, also known as the 'Stables Precinct' to 'Urban Development'. The reclassification and rezoning of the land will facilitate subdivision and development for residential purposes. The 'Stables precinct' is a 27 hectare site identified for future residential development in the East End of Port Hedland. The site is approximately 3.5 kilometres to the east of the proposed West End Improvement Scheme.

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 Town of Port Hedland. 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:

- Social Surroundings
- Terrestrial Environmental Quality
- Benthic Communities and Habitats
- Marine Fauna

Advice and Recommendations regarding Environmental Factors

Social Surroundings

The EPA understands from the Scheme Amendment Report that several Aboriginal Shell Midden and Engraving archaeological sites have been identified within the amendment area. The protection of Aboriginal heritage is an important ongoing consideration during planning and future development of the subject site. The EPA recommends engagement and consultation with Department of Planning Lands and Heritage and the local Aboriginal people with regard to obligations under the *Aboriginal Heritage Act 1972* (the AH Act). The AH Act provides for the preservation of Aboriginal heritage sites. The AH Act requires the reporting of Aboriginal sites to the Registrar, and it is an offence to interfere with a registered site unless otherwise authorised under the Act. It is also an offence to interfere with any Aboriginal site knowingly or where it would be reasonable to know, regardless of whether or not it is registered.

Terrestrial Environmental Quality

The site has areas identified as having a 'high to moderate' risk of acid sulphate soils. A Detailed Site Investigation and Management Plan should be prepared in accordance with the Department of Water and Environmental Regulation (DWER) *Acid Sulfate Soils Guidelines Series* and to the satisfaction of the DWER Contaminated Sites Branch.

Benthic Communities and Habitats

Development at Port Hedland has resulted in the incremental loss of Benthic Communities habitats, including mangrove and other intertidal and sub tidal habitats. Benthic Communities play important roles in maintaining the integrity of marine ecosystems and the supply of ecological services. In recognition of the importance of Benthic Communities the EPA published Technical Guidance – Protection of Benthic Communities and Habitats.

The EPA notes that the scheme amendment's northern boundary is set back from the Pretty Pool Creek mangroves Benthic Communities habitat. The EPA supports additional mitigation of development impacts as part of structure planning to identify a proposed environmental conservation area and roadway to separate the mangroves from development.

Modelling prepared for the scheme amendment indicates that changes to the hydrodynamics of the creek from development within the scheme amendment area will be minor. Therefore, significant indirect impacts to the Pretty Pool Creek mangroves are not considered to be likely, providing runoff during construction is adequately managed.

The EPA supports the proposed scheme text which requires that a Mangrove Management Plan, Foreshore Management Plan and Construction Management Plan are prepared to the satisfaction of the Town of Port Hedland on advice from the relevant State Government Agencies.

Marine Fauna

The Town of Port Hedland coastline provides habitat for marine turtles. Cemetery Beach and Pretty Pool Beach are known Flatback turtle nesting habitat. 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 'Stables Precinct' is located in an area with the potential for light spill and light glow on Cemetery Beach and Pretty Pool Beach. In addition to potential light impacts, an increased residential population also has the potential to impact marine turtle nesting and hatchling behaviour, through the use of recreation vehicles, pets and interaction with nesting turtles.

The EPA supports the proposed scheme provisions requiring a Marine Turtle management plan. The EPA recommends inclusion of additional scheme provisions which require future development of the 'Stables Precinct' 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).

Conclusion

The EPA concludes the scheme amendment 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 Social Surroundings, Terrestrial Environmental Quality, Benthic Communities and Habitats, and Marine Fauna.