



Ms Stephanie Addison-Brown
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Our Ref: CMS 17899
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Dear Ms Addison-Brown

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

SCHEME	Shire of Augusta - Margaret River Local Planning Scheme 2 (LPS 2)
LOCATION	Whole of Shire of Augusta Margaret River
RESPONSIBLE AUTHORITY	Shire of Augusta - Margaret River
DECISION	Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the 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 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 Chair'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 Chair'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 extending to the right.

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

14 September 2021

Encl. Chair's Determination
Scheme Advice and Recommendations

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

Shire of Augusta - Margaret River Local Planning Scheme 2

Location: Shire of Augusta - Margaret River

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

Determination Published: 13 September 2021

Summary

The Shire of Augusta - Margaret River (Shire) has initiated Local Planning Scheme (LPS) 2 to replace the existing LPS 1. The new scheme predominantly proposes to align the scheme with the *Planning and Development (Local Planning Schemes) Regulations 2015* and to reflect existing land use.

The Shire has recently referred to the EPA Amendment 70 to LPS 1 which proposes to zone a portion of the proposed Gnarabup resort and village development area from 'Future Development' to 'Tourism'. It is noted that changes proposed by LPS 1 Amendment 70 are not proposed in LPS 2.

The EPA has considered the scheme in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers LPS 2 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 Shire of Augusta Margaret River. 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:

- Flora and Vegetation
- Terrestrial Fauna
- Inland Waters
- Social Surroundings
- Coastal Processes
- Marine Environmental Quality

2. Advice and Recommendations regarding Environmental Factors

The scheme will allow for a range of future proposals within zoned land which is currently undeveloped, which have the potential for environmental impacts. This is particularly the case for the Rural Residential, Rural, Industry, Composite Industry, Industrial Development, Residential and Urban Development zones. These zones have primarily been transferred from LPS 1 to LPS 2, without major areas being rezoned. As sufficient information in relation to the range of environmental impacts associated with future proposals which may be implemented in these zones is not available to the EPA in considering LPS 2, the EPA has not been able to undertake an assessment of the relevant environmental issues. Subsequently, the EPA expects future proposals likely to lead to significant environmental impacts are referred to the EPA pursuant to Part IV of the EP Act.

Flora and Vegetation and Terrestrial Fauna

The EPA notes that some areas of land within LPS 2 contain or are adjacent to areas potentially containing conservation significant flora, vegetation and fauna habitat environmental values. This includes, but is not limited to, the following:

- Remnant native vegetation and threatened ecological communities (TEC) including Jarrah, Marri, Tuart Woodlands and Forests, and potential Banksia Woodlands of the Swan Coastal Plain (a TEC) under the *Environmental Protection and Biodiversity Conservation Act 1999*.
- Threatened flora including *Caladenia huegelii*.
- Threatened fauna habitat, including Western Ringtail Possum, species of black cockatoo, White - bellied Frog, Orange - bellied Frog, Carters Freshwater Mussel and Western Quoll.

The EPA notes that the only changes to reserves and zones proposed are:

- Transfer of approximately 24.5 hectares (ha) of land on the corner of Allnut Terrace and Hillview Road, Augusta from 'Public Purpose' and 'Parks and Recreation' reserves to 'Urban Development' zone. This will require the preparation of a structure plan to provide appropriate development controls to protect and/or manage impacts to environmental values if significant values are located.
- Transfer of approximately 22.7 ha of land on Hillview Road from 'Industry' zone to 'Parks and Recreation' reserve.

The EPA notes that LPS 2 proposes additional development controls to guide decision making to protect potentially significant environmental values. The Shire has proposed further modifications which the EPA supports and expects to be inserted into the scheme prior to finalisation. The EPA acknowledges that flora, vegetation, and fauna values are proposed to be protected and managed under the scheme requirements in Part 3 – *Zones and Use of Land* and Part 4 *General Development Requirements*.

The EPA also notes that the Shire proposes to introduce an Environmental Conservation zone and Special Control Area (SCA) 5 *Leeuwin Naturaliste Conservation and Landscape Amenity* which will include all the land use controls previously implemented in LPS 1.

The EPA supports the additional provisions and environmental management measures proposed to LPS 2 concerning:

- Clause 49 - *Land Clearing Requirements* - the local government may require that offset planting be undertaken where the removal of vegetation is required.
- Clause 49 *Environmental Protection Table 6 Objectives and Requirements for Environmental Assets* requiring the avoidance of Western Ringtail Possum habitat areas and species of Black Cockatoo breeding and roosting areas.
- Clause 79 Environmental Conservation zone – clearing to facilitate agricultural land use will not be supported.

The EPA expects that any future development considers the recovery plans for the Commonwealth/State listed Critically Endangered White-bellied and Orange-bellied Frogs and Western Ringtail Possum. The EPA also expects that any proposal with the potential to impact on these species would be referred under Section 38 of the EP Act.

Inland Waters

The EPA also supports the additional provisions and environmental management measures proposed in LPS 2 Clause 47 *Watercourses and Wetlands*

- (7) Development shall be setback 100m from a watercourse or wetland identified by the 'Environmental Assets Map' contained in the Local Planning Strategy.
- (10) (b) suitably fenced to prevent stock entering the watercourse setback area.

Social Surroundings

Land uses permitted in the Rural Residential, Rural, Industry, Composite Industry, Industrial Development, Residential and Urban Development zones may result in noise, dust and odour impacts. These impacts should be managed through consideration of surrounding zonings and separation distances from sensitive land uses, to minimise impacts on social surroundings. The EPA supports the following provision proposed by the Shire to be included in the scheme for separation distances to sensitive land uses:

'Where appropriate, proposed land uses which generate off-site impacts must demonstrate an appropriate separation distance from a sensitive land use or that potential impacts will be acceptable in order to preserve rural character and amenity, to the satisfaction of the local government and consistent with relevant Government policies and legislation'.

There are areas within LPS 2 which are listed on DWER's Contaminated Sites Database. Regard should be given to land uses which are restricted on these sites. Prior to development of these sites, further contamination assessment and/or remediation should be undertaken as required by the *Contaminated Sites Act 2003*, in consultation with the Department of Water and Environmental Regulation.

The Western Australian Aboriginal Heritage Inquiry System shows the LPS 2 area contains Aboriginal heritage sites. The EPA recommends appropriate consultation and investigation be undertaken prior to any development to ensure potential impacts to Aboriginal heritage values can be avoided or, if that is not possible, mitigated. Development must comply with obligations under the *Aboriginal Heritage Act 1972*.

The EPA also notes that the LPS 2 area contains European Cultural Heritage Sites vested under the *Heritage Act 2018*. As stated above, the EPA recommends appropriate consultation and investigation prior to any development undertaken to ensure potential impacts to cultural heritage can be avoided or, if that is not possible, mitigated.

Coastal Processes and Marine Environmental Quality

LPS 2 includes areas of coastline and marine environment. It is noted that the South Ocean Foreshore Protection zone in LPS 1 has been replaced with the Environmental Conservation zone in LPS 2. The EPA notes that LPS 2 has provisions under Clause 59 *Sea Level Rise* concerning development which potentially may be affected by sea level rise. Any proposed development containing values associated with Coastal Processes or Marine Environmental Quality should be informed by the SPP 2.6 *State Coastal Planning Policy* and EPA's Marine Factor Guidelines. DWER should be consulted as part of the future planning process for any proposed development adjacent to these areas.

Conclusion

The EPA concludes that LPS 2 can be managed to meet the EPA's environmental objectives through the scheme text and mapping mechanisms. In addition, the EPA notes and supports the Shire's proposed modifications to the scheme text, to be added to the scheme prior to finalisation.

Future structure planning and proposals should also further identify, manage and protect the above environmental values. The requirements of Part IV and V of the EP Act for

environmental impact and clearing permit assessments should also be considered for future development proposals.