



Mr Wayne Jack
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Our Ref: CMS 17992
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Dear Mr Jack

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

SCHEME	City of Kwinana Local Planning Scheme 2 Amendment 162
LOCATION	Lots 1, 7 - 11 & 88 Lyon Road, Wandi
RESPONSIBLE AUTHORITY	City of Kwinana
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 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 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

1 October 2021

Encl. Chair's Determination
Scheme Advice and Recommendations

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

City of Kwinana Local Planning Scheme 2 Amendment 162

Location: Lots 1,7-11 and 88 Lyon Road, Wandi

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

Determination Published: 4 October 2021

Summary

The City of Kwinana Amendment 162 proposes to rezone a portion of Lots 1, 7 - 11 & 88 Lyon Road, Wandi from 'Special Rural – 13' to 'Residential' with a density R5, R10 and R12.5 by amending the scheme map. The amendment proposes to amend the scheme to text by including the entirety of the lots within the Additional Uses table with Development Standards/Conditions.

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 of Kwinana. 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 amendment:

- a) Flora and Vegetation
- b) Terrestrial Fauna

2. Advice and Recommendations regarding Environmental Factors

Flora and Vegetation and Terrestrial Fauna

The EPA notes the proposal is to recreate 48 new lots of various sizes and the existing vegetation on-site is mostly degraded to good condition. The amendment area contains threatened species of black cockatoo foraging habitat and potential future breeding trees.

Implementation of the scheme amendment may result in the clearing of a maximum of six potential future breeding trees. This area and the six trees should be a priority for retention, and development should be located within existing cleared land.

The EPA recommends the City of Kwinana include a scheme text provision to Schedule VII-Additional Uses for:

Future subdivision design and layout of Lots to retain identified black cockatoo habitat tree(s) that have a Diameter at Breast Height (DBH) > 500mm (PGV Environmental 2016, Environmental Assessment Report or any update to this assessment) and are

not dead, diseased or pose a danger to humans. A 10 metre habitat tree protection zone should be identified to ensure the protection of retained trees during subdivision and development.

The following modifications to the proposed scheme amendment text in Schedule VII Additional Uses are also recommended to provide further protection of significant trees and potential fauna habitat:

- Condition 4 – replace ‘any trees worthy of retention’ with ‘any trees worthy of retention as determined by the local government’;
- Condition 4 – insert ‘R10 and R12.5’ after ‘R5’;
- Condition 5 – replace ‘except for the purpose of bushfire management’ with ‘except in accordance with an approved bushfire management plan’;
- Update the Scheme Amendment Report to remove all references to vegetation being totally removed from the lots in the R10 and R12.5 coded areas.

Conclusion

The EPA concludes the scheme amendment can be managed to meet the EPA’s environmental objectives through the proposed scheme provisions. In addition, future planning requirements can also assist in management of impacts. The EPA recommends its advice is implemented to further mitigate potential impacts to the above environmental factors.