



Mr Sam Mastrolembo
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Dear Mr Mastrolembo

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

SCHEME	Shire of Broome Local Planning Scheme 7
LOCATION	Whole of Scheme Area
RESPONSIBLE AUTHORITY	Shire of Broome
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

14 September 2021

Encl. Chair's Determination
Scheme Advice and Recommendations

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

Shire of Broome Local Planning Scheme 7

Location: Shire of Broome

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

Determination Published: 13 September 2021

Summary

The Shire of Broome (the Shire) has initiated Local Planning Scheme (LPS) 7 to replace the existing LPS 6. 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 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 Shire of Broome. 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:

- Inland Waters
- Terrestrial Environmental Quality
- Social Surroundings
- Benthic Communities and Habitats
- Marine Environmental Quality
- Subterranean Fauna
- Flora and Vegetation
- Terrestrial Fauna

2. Advice and Recommendations regarding Environmental Factors

LPS 7 will allow for a range of future proposals within zoned land which is currently undeveloped, which have the potential for environmental impacts. This includes land with zoning which has primarily been transferred from LPS 6 to LPS 7, 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 7, 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.

LPS 7 proposes to introduce 'Waste disposal facility' and 'Waste storage facility' as potential use classes in Table 3 Zoning Table and include the uses within the 'General Industry', 'Light Industry' 'Rural' and 'Environmental Conservation/Cultural Use' zones.

These land uses have the potential to impact significant environmental values across a range of factors including Inland Waters, Terrestrial Environmental Quality, Marine Environmental Quality, Benthic Communities and Habitats, Subterranean Fauna, Social Surroundings (including Aboriginal Heritage), Flora and Vegetation and Terrestrial Fauna.

The EPA notes the application of use classes within the LPS 7 zoning table will assist in managing potential impact to environmental values. 'Waste disposal facility' is to be listed as an 'A' use meaning the use is not permitted unless the local government has exercised its discretion by granting development approval, and 'Waste storage facility' listed as an 'I' use meaning it must relate to the predominant use of the land and comply with standards and requirements of the Scheme.

The Dampier Peninsula Working Group (led by the Shire of Broome) recently developed the Dampier Peninsula Waste Management Plan (DPWMP) to provide a framework for delivering sustainable waste management services to the Dampier Peninsula. The proposed Shire of Broome Local Planning Strategy associated with LPS 7 includes support for implementation of the DPWMP.

The EPA notes Local Planning Strategy outlines the Shire is proposing to establish a new recycling and landfill waste facility (Regional Resource Recovery Park (RRRP)) within the LPS 7 area. Special Control Area 3 for Essential Services Buffer Areas is proposed to be included in LPS 7 around the future RRRP, which will provide additional planning control for future land use. Future planning and approvals processes may require refinement of the proposed buffer.

As no detailed information in relation to the proposal and environmental impacts of the proposed RRRP has been provided the EPA has not considered the potential impacts of the RRRP as part of its assessment of LPS 7. It is recommended the Shire consult with the Department of Planning, Lands and Heritage to ensure the proposed RRRP site is appropriately zoned/reserved for the intended land use. The Shire should also consider its obligation to refer proposals likely to lead to significant environmental impacts, such as a RRRP facility, to the EPA pursuant to Part IV of the EP Act.

The EPA notes the Local Planning Strategy discusses the proposed closure of the Water Corporation's (WC's) Broome South Wastewater Treatment Plant (WWTP) and expansion of the WC's Broome North WWTP. The EPA supports the closure and remediation of the Broome South WWTP, and the Shire should note a future scheme amendment may be required to support future alternate land uses on the site. No zone/reservation change is proposed as part of LPS 7 for the area associated with the WC's Broome North WWTP expansion, and as such the EPA has not considered the potential impacts of the expansion as part of its assessment of LPS 7. The Shire should also consider its obligation to refer proposals likely to lead to significant environmental impacts, such as the WWTP expansion, to the EPA pursuant to Part IV of the EP Act.

Any future waste related facilities in the Shire of Broome will be further managed through licencing under Part V Division 3 of the EP Act.

The Local Planning Strategy supports the adequate protection of public drinking water supplies (including in remote communities) through the application of Special Control Area 5 Public Drinking Water Source Protection Areas, where appropriate. The EPA supports the Shire considering scheme amendments to LPS 7 to achieve this in future, in consultation with relevant authorities including the Department of Water and Environmental Regulation.

Conclusion

The EPA concludes that the scheme can be managed to meet the EPA's objectives through the proposed scheme controls. In addition, existing planning controls and future planning processes can further manage potential impacts.

Future development proposals may also need to consider the requirements of Part IV and V of the EP Act for environmental impact assessment, works approvals and licencing.