

Mr Stephen Cain
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Dear Mr Cain

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

SCHEME	City of Swan Local Planning Scheme 17 Amendment 209
LOCATION	Lot 9000 Cranwood Crescent Viveash
RESPONSIBLE AUTHORITY	City of Swan
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 blue ink, appearing to read 'MT', followed by a stylized flourish.

Prof. Matthew Tonts
Chair of the Environmental Protection Authority

20 December 2022

Encl. Chair's Determination
Scheme Advice and Recommendations

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

City of Swan Local Planning Scheme 17 Amendment 209

Location: Lot 9000 Cranwood Crescent, Viveash

Determination: Scheme Not Assessed – Advice Given (Not Appealable)

Determination Published: 22 December 2022

Summary

The City of Swan Local Planning Scheme 17 Amendment 209 proposes to rezone Lot 9000 Cranwood Crescent, Viveash from 'General Industrial' to 'Residential Development'.

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 as set out 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 scheme amendment documentation provided by the City of Swan. Having considered this matter, the following advice is provided.

Environmental Factors

Having regard to the EPA's *Statement of environmental principles, factors, objectives and aims of EIA*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Social Surroundings
- Air Quality
- Flora and Vegetation
- Terrestrial Fauna
- Inland Waters

Advice and Recommendations regarding Environmental Factors

The EPA considers that this amendment in itself would not have a significant impact on the environment. However, several issues are raised by the amendment (in particular the issues of dust, noise and air quality) from the adjacent 'General Industry' zoned land and operating brickworks.

EPA recommends that future structure planning and subdivision design take into consideration the factor specific advice below.

Social Surroundings and Air Quality

The amendment area is adjacent to existing 'General Industrial' zoned land that is operating as a brickworks. Kiln 11 and the clay shed are the nearest operating elements within the brickworks site. Implementation of the scheme amendment may result in impacts to sensitive receptors, such as residential development, from Kiln 11 and the clay shed. Future residents may be impacted by reduced air quality (potential NO_x emissions), and noise and dust emissions from the adjacent existing land use.

Rezoning to 'Residential Development' requires the preparation of an accompanying structure plan under clause 4.2.8 of LPS 17, to the requirements of clause 5A.1.1. The preparation of a structure plan for future development provides a mechanism for management of potential impacts. Structure planning should be informed by the consideration of the advice below and consider appropriate interfaces/transitional development. Further planning controls can be captured through the subdivision process, including the setting of subdivision conditions and notifications on title.

In addition, scheme text has been proposed by the City as a modification to the referred scheme amendment, via correspondence dated 6 December 2022. The scheme text will introduce a 'Restricted Use' overlay on the proposed 'Residential Development' zone on the scheme map and introduce text provisions to manage potential amenity impacts. This will restrict and condition the development of sensitive land uses while there are still operating brickworks elements within 1000m of the amendment area that may impact such land uses.

The EPA understands that Kiln 11 is proposed to be decommissioned in April 2023. The EPA expects the proposed scheme text and map overlay are included in LPS 17, and that this occurs regardless of whether Kiln 11 is decommissioned prior to gazettal of the amendment, as other elements of the brickworks such as the clay shed may remain in operation.

Future development within the amendment area should have regard for EPA's Environmental Protection *Guidance Statement No.3 Separation Distances Between Industrial and Sensitive Land Uses* and *State Planning Policy No. 4.1 – Industrial Interface*.

The amendment area is situated under Perth Airport's flight paths and is affected by the 20-25 ANEF aircraft noise exposure contour. Future development should be consistent with *State Planning Policy 5.1 - Land Use Planning in the Vicinity of Perth Airport*.

The amendment area is in the vicinity of Registered Aboriginal Site 3720, Blackadder and Woodbridge Creek. Blackadder Creek tributary runs adjacent to the amendment area. The EPA also recommends appropriate consultation (further to that already undertaken), investigation and relevant management plans be undertaken prior to subsequent stages of planning to address potential impacts to Aboriginal heritage values. Such stages of planning should also be considered in accordance with the requirements of the *Aboriginal Cultural Heritage Act 2021* and the *Aboriginal Heritage Act 1972* (transitional period).

Flora and Vegetation, Terrestrial Fauna

The Environmental Assessment Report (Emerge Associates 2021) states that amendment area contains degraded vegetation, predominantly consisting of Woodland to small shrubland of scattered native and non-native trees, with a small area of *Eucalyptus wandoo* woodland. A very small amount of this vegetation is also mapped as potential black cockatoo habitat. The amendment area contains three habitat trees, that were not found to have suitable nesting hollows (Emerge Associates 2021).

Adjacent to the site are occurrences of the threatened ecological community (TEC) '*Corymbia calophylla* – *Xanthorrea preissii* woodlands and shrublands, Swan Coastal Plain' (floristic community type (FCT) SCP3c) listed as critically endangered under the *Biodiversity Conservation Act 2016* (BC Act) and endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). TEC mapping should be confirmed with Department of Biodiversity Conservation and Attractions (DBCA) as part of future stages of planning. The TEC is sensitive to changes in hydrology and advice on this is provided under the Inland Waters factor.

Future planning should have regard for the EPA's 2021 Guidance for planning and development: Protection of naturally vegetated areas in urban and peri-urban areas. Road layout, and fire, noise, and drainage management should all be managed through the planning process to minimise impact surrounding native vegetation.

Retention of trees for both habitat and social amenity value should be considered as part of future planning.

Inland Waters

A tributary of the Blackadder Creek runs adjacent to the amendment area. Stormwater is discharged to the tributary and ultimately to the Swan River.

Implementation of the scheme amendment may result in changes to the local groundwater and surface water hydrology, quantity and quality, hydrological impacts to Blackadder Creek tributary and ultimately impact quality of water discharging to the Swan River

The *Corymbia calophylla* – *Xanthorrhoea preissii* woodlands and shrublands 2000-2003, Interim Recovery Plan No 60 (English and Blyth 2000) notes hydrological changes is a threat to the TEC. Future development may have indirect impacts to the TEC mapped adjacent to the amendment area through changes to local hydrology.

It is noted a draft Local Water Management Strategy (Hyd2o, 2022) has been prepared to demonstrate how potential impacts to hydrology and the TEC can be mitigated and managed. Ongoing consultation with Department of Water and Environmental Regulation (DWER) and DBCA as part of the future planning process, as outlined in the LWMS, is supported. Future water management plans should be endorsed by DWER and DBCA as applicable, to the satisfaction of the City.

Future water management planning for the site should maintain or improve surface water and groundwater quality and consider the hydrological requirements of the surrounding environment (including Blackadder Creek tributary and the TEC), to avoid and manage impacts to these values. A Foreshore Management Plan should be prepared as part of future stages of planning, in consultation with DWER and DBCA. A Construction Environment Management Plan is recommended to be prepared as part of future stages of planning to manage direct and indirect impacts (including erosion) to environmental values within and adjacent to the area from sources such as earthworks and vehicle movement.

Conclusion

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives for the above factors through existing planning scheme controls. Future planning requirements, and other statutory processes are also able to manage potential impacts. The EPA recommends its advice is implemented to mitigate potential impacts to the environmental factors, in particular the recommended modifications to the scheme text.