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Our Ref: APP-0000158
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Dear Mr Nottle

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

SCHEME	City of Busselton Town Planning Scheme 21 Amendment 55
LOCATION	Lots 4 & 12 Caves Road, and Lots 14, 15 & 402 Bussell Hwy, Abbey
RESPONSIBLE AUTHORITY	City of Busselton
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 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 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 'M. Tonts', with a long horizontal flourish extending to the right.

Prof. Matthew Tonts
Chair of the Environmental Protection Authority

13 December 2022

Encl. Chair's Determination
Scheme Advice and Recommendations

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

City of Busselton Local Planning Scheme 21 Amendment 55

Location: Lots 4 & 12 Caves Road and Lots 14, 15 & 402 Bussell Highway, Abbey

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

Determination Published: 19 December 2022

Summary

Amendment 55 proposes to rezone Lots 4 & 12 Caves Road and Lots 14, 15 & 402 Bussell Highway, Abbey from 'Conservation' and 'Rural' zones to 'Urban Development' zone. The amendment also proposes to insert 'Special Provision Area No. 76' (SP76) at Schedule 3 of the Scheme, and to modify the extent of the 'Landscape Value Area – Special Control Area' to exclude the amendment area.

The proposed amendment is to facilitate the implementation of the Abbey South Structure Plan, and subdivision and development of the Abbey South precinct.

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 original referral documentation and additional information provided by the City of Busselton (the City) for this amendment. Having considered this matter, the following advice is provided.

Environmental Factors

Having regard to the EPA's *Statement of Environmental Principles, Factors and Objectives*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

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

Advice and Recommendations regarding the Environmental Factors

Flora and Vegetation and Terrestrial Fauna

The amendment area has historically been utilised for agricultural purposes (grazing) and as such, consists of mostly cleared rural land with some remnant trees scattered across the paddocks and along lot boundaries. An area of dense vegetation within the Caves Road reserve abuts the northern boundary of the amendment area and is likely to provide habitat for the Western Ringtail Possum (listed as Critically Endangered under the *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999*).

The amendment proposes to insert provisions at Schedule 3 of the Scheme, to assist in managing native vegetation and fauna habitat through structure planning processes. The provisions require the preparation of a structure plan that sets out *'measures to retain, manage, and enhance environmental values associated with the Special Provision Area including remnant vegetation, potential habitat for Commonwealth and State listed threatened fauna species, ecological linkages and wetlands, within 'public open space', road reserves, and/or conservation areas (as identified on the Structure Plan).'*' The provisions also require that these measures address linkages and connectivity with lands adjoining the amendment area, and detail management measures to maintain and enhance the habitat functions of these areas.

The EPA supports the proposed provisions and provides the following additional advice.

1. The EPA considers that the remnant vegetation within the amendment area, particularly the connected vegetation along the lot boundaries, may provide some habitat value and/or a corridor for localised fauna movement. It is noted that the referred structure plan proposes to retain much of the vegetation around the perimeter of the amendment area, and some within future Public Open Space (POS) areas. The EPA supports the further retention of existing vegetation and mitigation measures (such as rope bridges) particularly in areas providing canopy connectivity, and recommends that future development of the amendment area incorporates planting of preferred Western Ringtail Possum habitat species within the POS areas.
2. The EPA notes and supports the proposed construction of northern access to Caves Road over an existing driveway footprint, to avoid clearing of Western Ringtail Possum habitat within the Caves Road reserve.
3. The EPA notes that implementation of the scheme amendment may result in indirect impacts including noise, dust and/or light emissions to adjoining areas of native vegetation and fauna habitat, and potential disturbance to Western Ringtail Possum individuals residing in these areas. Accordingly, the EPA recommends a fauna management plan (or similar) is prepared prior to works commencing, describing how potential impacts from construction and development will be mitigated and managed (e.g. fauna spotting, fencing, traffic calming measures, dust and noise amelioration).

Inland Waters and Coastal Processes

The amendment area contains portions of five mapped Multiple Use Wetlands (UFIs: 39, 41, 63, 64, 13195) which are subject to intermittent waterlogging. A large portion of the amendment area is within the mapped 1 in 100 Annual Exceedance Probability (AEP) Floodplain Development Control area for the 'Vasse-Wonnerup Estuaries, Broadwater and New River – Busselton.' The southern portion of the site is also within the mapped Floodplain Area and Floodway and Fringe Area for the Broadwater Nature Reserve Swamp (BNRS), located approximately 100m south of the amendment area boundary.

The EPA considers that implementation of the scheme amendment may result in a modified hydrological regime and reduced water quality discharging to the Buayanyup River Main Drain.

As above, it is noted that the amendment proposes to insert provisions at Schedule 3 of the Scheme, including a requirement for structure plans to include a water management report that *'takes into consideration the land to the south and addresses all water-related matters relevant to the proposal.'* The EPA supports this provision and provides the following recommendations to further mitigate potential impacts from future development of the amendment area.

1. The EPA notes and supports the proposed exclusion of development within the mapped floodway areas, and most of the mapped wetland areas, by retaining them within future Public Open Space. However, the EPA notes that wetland buffers have not been discussed within the referral documentation. It is recommended that further consultation is undertaken with the Department of Biodiversity, Conservation and Attractions regarding the management of potential impacts and the application of buffers to further protect the wetlands. Consultation regarding the water management report should also be undertaken with the Department of Water and Environmental Regulation.
2. The EPA considers the proposed amendment as an opportunity to enhance the environmental value and function of the wetland areas as part of future development. Revegetation of the wetlands with native riparian species, and trees where suitable, may provide for improved water quality outcomes and assist in stormwater management, whilst also providing habitat.
3. The EPA notes the requirement to fill portions of the amendment area to 3m AHD prior to development, to meet the coastal erosion hazard requirements under the City's *Coastal Hazard Risk Management and Adaptation Plan (2022)*.

Social Surroundings

The referral documents note that a lodged Aboriginal Heritage Site (ID: 5337) slightly overlaps a western portion of the amendment area and is likely to be associated with the Vasse Drain. The EPA recommends appropriate consultation, 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).

Conclusion

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