

***Environmental Protection Act 1986***

**Section 39A(7)**

**PUBLIC ADVICE**

<b>Proposal:</b>	Busselton Eastern Link Project
<b>Proponent:</b>	City of Busselton
<b>Decision:</b>	<b>Not Assessed – Public Advice Given</b>

The EPA considers that the proposal is unlikely to have a significant impact on the environment and does not warrant formal assessment.

**Background:**

On 8 January 2018, the City of Busselton referred the Busselton Eastern Link Project to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* (EP Act). The proposal includes the development of a new two-lane road and bridge linking Causeway Road to Cammilleri Street, including a new bridge over the Vasse River.

The proposal was advertised for public comment and the Environmental Protection Authority (EPA) notes that 61 public comments were received. Key issues raised in the public submissions included: impacts to the Western Ringtail Possum (*Pseudocheirus occidentalis*) from the removal of mature peppermint trees and impacts to established trees; impacts to Carter's Freshwater Mussel (*Westralunio carteri*), black cockatoos and Priority fauna and flora; impacts to wetlands including frogs, waterbirds/migratory birds, turtles and samphire; and noise and visual impacts to public open space.

**Relevant Statutory and Administrative Provisions**

The EPA has considered the proposal in accordance with the requirements of the EP Act and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* and *Procedures Manual*.

**Materials considered in making this decision**

The EPA has considered and had regard to the referral information, which is available on the EPA's consultation hub, any comments received during the seven-day comment period, information conducted through its own inquiries and any further information requested from the proponent and government agencies.

## Consideration

In making its decision on whether to assess the proposal, the EPA had regard to various matters, including the following (as outlined in the EPA's *Statement of Environmental Principles, Factors and Objectives*):

- a) values, sensitivity and quality of the environment which is likely to be impacted
- b) extent (intensity, duration, magnitude and geographic footprint) of the likely impacts
- c) consequence of the likely impacts (or change)
- d) resilience of the environment to cope with the impacts or change
- e) cumulative impact with other projects
- f) connections and interactions between parts of the environment to inform a holistic view of impacts to the whole environment
- g) level of confidence in the prediction of impacts and the success of proposed mitigation
- h) public information that informs the EPA's consideration of the likely effect of the proposal, if implemented, on the environment

In considering the potential direct and indirect impacts of the proposal on the Flora and Vegetation, Terrestrial Fauna, Terrestrial Environmental Quality, Inland Waters Environmental Quality, Hydrological Processes and Social Surroundings (Aboriginal Heritage, Heritage and Amenity), the EPA has had particular regard to:

- the high level of community interest in this proposal and issues relating to the environmental factors;
- the environmental values within and surrounding the proposal area;
- the proponent's referral documentation including investigations for Flora and Vegetation, Fauna and Terrestrial Environmental Quality;
- the lack of threatened ecological communities (TEC), priority ecological communities (PEC), threatened or priority flora species within the development envelope;
- the small scale (0.56 hectares) of vegetation clearing which equates to the loss of 0.01% of the current extent of the Vasse Vegetation complex, of which there is 31.4% of the pre-European extent remaining;
- that while the development envelope overlaps the boundary of a previous offset area (CSP1617), the proposal would not impact on any of the peppermint trees required by this offset;
- the lack of evidence of foraging, feeding or roosting of black cockatoos within the development envelope with no suitable nesting trees present;
- the small scale (less than 0.1 hectares of canopy) clearing of Western Ringtail Possum habitat. The Western Ringtail Possum is listed as 'Vulnerable' under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and

'Critically Endangered' under the *Western Australian Wildlife Conservation Act 1950* (WC Act);

- the proposed temporary translocation of one population of Carter's Freshwater Mussel located at the proposed bridge site during construction. This species is listed a 'Vulnerable' under the EPBC Act and WC Act, with four populations of identified along the Lower Vasse River;
- the potential minor increase to predicted flow velocities of the Vasse River and small scale excavation and dewatering required during construction, which are not predicted to significantly impact on the hydrological regimes of the Lower Vasse River and local groundwater;
- the potential for disturbance of acid sulfate soil (ASS) during construction and the commitment to undertake further investigations to determine the presence of monosulfidic black ooze (MBO) in proposed riverine disturbance areas;
- surveys concluded that there were no Aboriginal heritage sites over the Lower Vasse River near the proposal;
- impacts to amenity such as vibration in nearby buildings and visual impacts from the bridge are predicted to be minor;
- no impacts as a result of vibration and dust are predicted to the two nearby state heritage sites protected under the *Heritage of Western Australia Act 1990*;
- the mitigation strategies proposed by the proponent to avoid and minimise impacts, including:
  - minimising impacts to native vegetation by locating a portion of the project on land previously cleared for rail, and reducing the clearing of mature peppermint trees along the northern edge of the Vasse River from 17 to 7 trees;
  - the proposed rehabilitation of vegetation including the commitment to plant at least two peppermint trees for every tree removed along and no more than 100m from the Lower Vasse River and Vasse River Delta Wetlands;
  - implementation of a Construction Environmental Management Plan (CEMP) which includes clearing and weed management controls, and measures to minimise impacts to water quality during construction;
  - minimising impacts to fauna through development of a possum over-pass (rope bridge), vegetated underpass, and shuttered street lighting to reduce light spill to the adjacent woodland;
  - the temporary translocation of the Carter's Freshwater Mussel population during construction;
  - the proposed revegetation of river banks to minimise erosion and bank scour, and the construction and management of bio infiltration gardens to capture runoff and minimise impacts to water quality as a result of stormwater and risks from accidental spills during operations; and

- the proponent's commitment to develop, submit to the Department of Water Environment and Regulation (DWER) and implement an ASS and (if present) MBO management plan.
- the advice from the Department of Biodiversity, Conservation and Attractions (DBCA) that:
  - the proposed Western Ringtail Possum rope bridge overpass and vegetated underpass have merit at this site if appropriately designed and maintained;
  - the proponent's documentation addresses most of the aspects required to assess the feasibility and conservation outcomes of the Carter's Freshwater Mussel translocation; and
  - the required details for managing the mussel translocation can be set out under a Regulation 15 licence under the *WC Act* and *Wildlife Conservation Regulations 1970*. The licence should be supported by a management plan.
- the advice from the DWER that:
  - direct clearing impacts associated with the Busselton Eastern Link Project can be managed under Part V of the EP Act; and
  - ASS investigations indicate that ASS management is warranted as a means of mitigating ASS disturbance and risks.
- the presence of other statutory processes that can manage the potential impacts to the identified environmental factors including:
  - the requirement to seek a clearing permit under Pt V of the *EP Act*; and
  - the requirement to seek a Regulation 15 Licence under the *Wildlife Conservation Act 1950* and *Wildlife Conservation Regulations 1970* for the translocation of the Carter's Fresh Water Mussel population.
- the EPA has not considered the transport planning and traffic merits of the proposal which are not relevant considerations for the EPA under the EP Act. It is understood that these matters have been considered by the City of Busselton during the planning of the proposal.

In summary, although the proposal raises a number of environmental issues, the EPA considers that its objectives for Flora and Vegetation, Terrestrial Fauna, Terrestrial Environmental Quality, Inland Waters Environmental Quality, Hydrological Processes and Social Surroundings (Aboriginal Heritage, Heritage and Amenity) can be met.

This is primarily on the basis that the predicted extent and consequences of the impacts on fauna, flora and vegetation and water quality of the Vasse River are minor, and the proponent has proposed adequate mitigation measures to minimise impacts to the Ringtail Possum, Carter's Freshwater Mussel and water quality during both construction and operations.

In consideration of the points above, the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant formal assessment. The EPA is of the view that the potential impacts of the proposal can be adequately managed by the proponent's mitigation measures, implementation of the EPA's advice and also dealt with by other statutory processes. These include through Part V Division 2 (Clearing) of the EP Act and a Regulation 15 licence under the *Wildlife Conservation Act 1950* and *Wildlife Conservation Regulations 1970*.

## **1. Environmental Factors**

The EPA has identified the following environmental factors:

- a) Flora and Vegetation
- b) Terrestrial Fauna
- c) Terrestrial Environmental Quality
- d) Inland Waters Environmental Quality
- e) Hydrological Processes
- f) Social Surroundings

There were no factors that were determined to be key environmental factors that would require formal assessment under Part IV of the EP Act. The EPA considers that the mitigation of the potential effects on the environment can be regulated by other statutory decision-making processes and through the implementation of proponent commitments and best practice measures in accordance with this advice.

## **2. Advice and Recommendations regarding Environmental Issues**

### **Terrestrial Fauna**

The EPA notes that the proponent has minimised impacts to the Western Ringtail Possum habitat corridor through the reduction in clearing of peppermint trees from 17 to 7 trees, and has proposed measures to maintain habitat connectivity for fauna. The EPA expects the rope bridge overpass and vegetated under pass to be appropriately designed, managed, maintained and monitored by the City of Busselton.

The EPA recognises the potential impact to one population of Carter's Freshwater Mussel and the translocation measures proposed by the proponent to minimise these impacts during construction. Consistent with the DBCA advice the EPA recommends that the required Regulation 15 licence is supported by a management plan acceptable to the DBCA. The management plan should address the: scientific approach; objectives; methods (including consideration of the number of mussels to be removed, the carrying capacity of the temporary receival site, and alternative temporary sites); monitoring (including a detailed post release monitoring program, frequency, duration and population targets), and any contingencies to successfully undertake the mussel translocation.

## **Terrestrial Environmental Quality and Inland Waters Environmental Quality**

The EPA recognises potential for disturbance of ASS and MBO, which if not managed appropriately could result in impacts to soil, ground and surface water, and the values of the Vasse River. The EPA notes that the proponent has committed to prepare and implement an ASS and dewatering management plan, and undertake further investigations for MBO.

Consistent with the advice of the DWER, the EPA recommends that the proponent prepare an ASS management plan consistent with the DWER's acid sulphate soil guidelines. The result of MBO investigations should be referred to DWER for review, and MBO management measures included in the ASS management plan as required. The EPA expects that the proponent will refer the results of MBO investigations and the ASS management plan to DWER for review and response prior to undertaking the ground and riverine sediment disturbing works. The EPA expects that construction will be undertaken in a manner which reduces the disturbance of acid sulphate soils as far as practicable.