

## ***Environmental Protection Act 1986***

### **Section 39A(7)**

#### **PUBLIC ADVICE**

**Proposal:** Subdivision at Goodwood Estate, Lot 9002 Prowse Road, Capel

**Proponent:** Meynell Pty Ltd

**Decision:** **Not Assessed – Advice Given (Appealable)**

The Environmental Protection Authority (EPA) considers the proposal is unlikely to have a significant impact on the environment and does not warrant formal assessment.

#### **Background:**

Meynell Pty Ltd is proposing to subdivide Lot 9002 Prowse Road, Capel (Lot 9002) to create 58 lots for residential development, a reserve for recreation and drainage and a balance lot in the south-western vegetated portion of Lot 9002.

The proposal includes the provision of an area for recreation and drainage in the eastern portion of Lot 9002, and construction of roads and infrastructure to facilitate residential development in the northern portion of Lot 9002.

In 2003 the EPA assessed the Greater Bunbury Region Scheme and deferred factors for the subject site (formerly Lot 871 and now Lot 9002). The EPA report stated that Urban zoning of Lot 871 was environmentally acceptable subject to 6 ha of remnant vegetation being conserved and protected as part of any future subdivision or development of the land.

On 16 October 2019, the Western Australian Planning Commission referred a proposal to subdivide Lot 9002 to the EPA under section 38 of the EP Act. The proposal included subdivision to create 70 lots for residential development and a reserve for recreation and drainage.

The proposal was originally published by the EPA for public comment in March 2020; the EPA notes that 11 public comments were received. All 11 submissions received requested the proposal is assessed by Public Environmental Review due to the impact of proposed development over approximately 5.8 ha of native vegetation containing the Critically Endangered *Drakaea elastica* (Glossy-leafed Hammer Orchid) and threatened species of black cockatoo habitat.

In August 2020 the proponent submitted a modified subdivision plan for 58 lots for residential development, a reserve for recreation and drainage, and a balance lot of no development over the vegetated area.

The proposal was re-published for public comment on 31 August to 6 September 2020 and the EPA received seven public comments. All seven comments requested the proposal be assessed by Public Environmental Review for the same reasons as listed in the previous public comment period.

### **Relevant Statutory and Administrative Provisions**

The EPA has considered the proposal in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act) and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* and *Environmental Impact Assessment (Part IV Divisions 1 and 2) 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 7-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 existing or reasonably foreseeable activities, developments and land uses connections and interactions between parts of the environment to inform a holistic view of impacts to the whole environment
- f) level of confidence in the prediction of impacts and the success of proposed mitigation
- g) public interest about the likely effect of the proposal, if implemented, on the environment, and public information that informs the EPA's assessment

In considering the potential direct and indirect impacts of the proposal on Flora and Vegetation, and Terrestrial Fauna, the EPA has had particular regard to:

- The proponent's site-specific environmental studies and investigations that have informed the modified subdivision plan;

- The high environmental values of the vegetated area of approximately 5.89 hectares (ha) in the balance lot;
- Subdivision and development to create 58 lots will largely be limited to the already cleared northern portion of Lot 9002, except for a small drainage reserve within the balance lot;
- No conservation significant flora or vegetation will be directly impacted by the proposal. Any clearing required for subdivision and development to create 58 lots in the northern portion of Lot 9002 is minimal and localised;

Given the above considerations, although the proposal raises environmental issues, the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant formal assessment and the potential impacts can be adequately managed through the implementation of the proposal in accordance with the August 2020 modified subdivision plan and implementation of the EPA's advice below.

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

### **Flora and Vegetation and Terrestrial Fauna**

The EPA supports the provision of the balance lot which proposes no development over the vegetated area in the south-western portion of Lot 9002, except for a small drainage reserve.

The Banksia open woodland remnant vegetation in the balance lot is mapped as the Southern River vegetation complex, which has been historically heavily cleared. Flora and vegetation surveys in 2005, 2007 and 2008 have identified *Drakaea elastica* (Glossy-Leafed Hammer Orchid) as growing within this balance lot bushland area.

*Drakaea elastica* is listed as Critically Endangered under the *Biodiversity Conservation Act 2016* (BC Act) and Endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is illegal to clear or disturb this species without the permission of the Minister for Environment.

*Drakaea elastica* has specific habitat requirements, growing only in association with certain vegetation communities, and requiring a particular type of wasp (Thynnid Wasp) for pollination, as well as a particular soil fungus to germinate its seed and to supply nutrients to the plant throughout its life cycle. As with many orchid species, *Drakaea elastica* has variable flowering times and germination location each year. The plants die back to an underground tuber over summer, and each plant may not flower every year. Research has found that it is susceptible to any disturbance, including nearby clearing, fragmentation and degradation of habitat, grazing, weed infestation and inappropriate fire regimes. To ensure its survival, a broad scale habitat conservation approach is required. The best way to ensure the survival of this highly significant *Drakaea elastica* population would be to set aside the balance lot as a conservation reserve.

Subsequently, the EPA would expect that any future proposal within the balance lot would be likely to lead to significant environmental impacts on the above factors. Decision making authorities should refer significant proposals to the EPA pursuant to Part IV of the EP Act.

The EPA recommends the small drainage reserve proposed in the balance lot be relocated to the northern development area. If this is not possible, all drainage works should be contained within the drainage reserve to ensure occurrences of *Drakaea elastica* are not impacted.

To ensure the protection and ongoing management of *Drakaea elastica* within the remnant vegetation in the balance lot a management plan, including a requirement for fencing, is recommended. The management plan should be approved by the Department of Biodiversity, Conservation and Attractions prior to the commencement of subdivision works. Protection of the remnant vegetation in the south-western portion of Lot 9002 through a management plan for *Drakaea elastica* will also protect the Western Ringtail Possum and black cockatoo habitat.

The EPA also recommends a notification is placed on the certificate of title for the balance lot to alert future owners the lot contains occurrences of a Critically Endangered flora species which is protected under the BC Act and EPBC Act.

Given the above, the EPA considers that the proposal, as implemented consistent with the referral information and August 2020 modified subdivision plan, is unlikely to have a significant impact on the environmental factors of Flora and Vegetation and Terrestrial Fauna.