



Report and recommendations of the Environmental Protection Authority



**Residential subdivision on lots 3000
(formerly lot 1512) and 1523
Emu Point Drive, Albany
– inquiry under section 46 of the
Environmental Protection Act 1986
to change conditions 3 and 5 of
Ministerial Statement 894**

Western Australian Land Authority

Report 1473

May 2013

EPA R&R No: 1473

ENVIRONMENTAL PROTECTION AUTHORITY REPORT AND RECOMMENDATIONS TO THE MINISTER FOR ENVIRONMENT

RESIDENTIAL SUBDIVISION ON LOTS 3000 (FORMERLY LOT 1512) AND 1523 EMU POINT DRIVE, ALBANY – INQUIRY UNDER SECTION 46 OF THE *ENVIRONMENTAL PROTECTION ACT 1986* TO CHANGE CONDITIONS 3 AND 5 OF MINISTERIAL STATEMENT 894 (ASSESSMENT NO. 1961)

The Minister for Environment has requested (3 January 2013) that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing the implementation conditions relating to the Residential Subdivision on Lots 3000 (formerly Lot 1512) and 1523 Emu Point Drive, Albany proposal (the proposal).

The following is the EPA's Report and Recommendations (No. 1473) to the Minister pursuant to section 46(6) of the *Environmental Protection Act 1986* (the EP Act).

Background

The proposal is to develop a residential subdivision on Lots 3000 (formerly Lot 1512) and 1523 Emu Point Drive, Albany and provide associated infrastructure. The EPA assessed the proposal at the level of Public Environmental Review due to potential impacts on significant fauna species and native vegetation.

The EPA concluded it was likely the EPA's objectives would be achieved, provided there was satisfactory implementation by the proponent of the EPA's recommended conditions.

The Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement 894, in April 2012.

Requested changes to conditions

The proponent for the proposal, the Western Australian Land Authority, has requested the following changes to the implementation conditions of Ministerial Statement 894:

- Changes to Condition 3 to extend the time limit of authorisation to implement the proposal to ten years; and
- Changes to Condition 5 to remove the specified limit of native vegetation to be cleared.

Assessment of the proposed change to conditions

Condition 3 Time Limit of Authorisation

Condition 3-1 of Ministerial Statement 894 states:

3-1 The authorisation to implement the proposal provided for in this statement will lapse and be void five years after the date of this statement if the proposal to which this statement relates is not substantially commenced.

3-2 The proponent shall provide the CEO with written evidence which demonstrates that the proposal has substantially commenced on or before the expiration of five years from the date of this statement.

The proponent has requested that the implementation timeframe be extended to ten years, on the basis that further work is required prior to implementation and development of the proposal.

The EPA considers it appropriate to set a five year time limit of authorisation for significant proposals, as five years provides a reasonable amount of time to obtain other statutory approvals, and minimises the risk of the implementation conditions being out dated at the time of implementation.

If the time limit of authorisation was extended to ten years as requested, there is potential for environmental changes to occur which would risk the implementation conditions becoming out dated.

The EPA recommends that the matter of extending the time limit of authorisation is considered closer to the expiration of the initial five year period, so that the continued relevance of the implementation conditions can be better evaluated.

Condition 5 Vegetation

The original proposal was to develop 16.9 hectares of land, within which a maximum of 14.7 hectares of native vegetation would be cleared. The remaining 2.2 hectares was to be retained as 'green spines' through the development footprint.

Ministerial Statement 894 limits the area of native vegetation clearing through Condition 5 and Schedule 1 (Table 1: Summary of Key Proposal Characteristics).

Table 1 of Schedule 1 defines the area of native vegetation to be cleared within the development footprint as “not more than 14.7 hectares (includes 0.6 hectares of hazard separation where overstorey vegetation will be retained).

Condition 5-2 states:

5-2 The proponent shall ensure that the implementation of the proposal does not cause the loss of more than 14.7 hectares of native vegetation through direct impacts to native vegetation located within the development footprint referred to in condition 5-1.

The proponent considers Condition 5-2 redundant and has requested it be deleted. The area of vegetation permitted to be cleared would then be specified only in Schedule 1 of Ministerial Statement 894.

The proponent is also seeking to increase the total area of native vegetation to be cleared within the development footprint.

Fire management practices have changed significantly since the original proposal was developed, and under current guidelines the proposed ‘green spines’ would constitute a fire risk and require fuel reduction measures. Hazard separation requirements (around residential buildings) would also impact on the area of vegetation able to be retained within the development footprint.

The proponent has determined that in order to comply with current fire management guidelines the proposal would require an additional 1.8 hectares of clearing within the proposal footprint than currently permitted by Ministerial Statement 894. The area of vegetation to be retained within the proposal area but outside the proposal footprint will remain unchanged.

If the Minister deletes Condition 5-2 the proposed additional clearing would be subject to assessment under section 45C of the EP Act (as a change to the proposal). The EPA considers that the proposed change to the proposal is unlikely to have a significant impact on the environment different to or additional to the original proposal, and that section 45C is the appropriate instrument to assess this change.

The EPA considers that Condition 5-2 may be deleted.

EPA conclusion(s) and recommendation(s)

The EPA concludes that in relation to Ministerial Statement 894 it is appropriate to delete Condition 5-2 (relating to the amount of vegetation to be retained within the development footprint). The EPA does not consider it appropriate to amend Condition 3 to extend the time limit of authorisation to ten years.

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment:

1. That it is not appropriate to amend Condition 3 to extend the time limit of authorisation to ten years;
2. That it is appropriate to delete Condition 5-2, relating to the amount of vegetation to be retained within the development footprint; and
3. That after complying with section 46(8) of the *Environmental Protection Act 1986*, the Minister issues a statement of decision to change Condition 5 of Ministerial Statement 894 in the manner provided for in the attached recommended statement.

OEPA MIN921/12

RECOMMENDED ENVIRONMENTAL CONDITIONS

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

RESIDENTIAL SUBDIVISION ON LOTS 3000 (FORMERLY LOT 1512) AND 1523
EMU POINT DRIVE, ALBANY

Proposal: The proposal is for the residential subdivision of Lots 3000 (formerly Lot 1512) and 1523 Emu Point Drive in Albany, as documented in Schedule 1 of Statement 894.

Proponent: Western Australian Land Authority
Org No. 158 613 935

Proponent Address: Level 3, Wesfarmers House
40 The Esplanade
PERTH WA 6000

Assessment Number: 1961

Previous Assessment Number: 1680

Report of the Environmental Protection Authority: 1473

Previous Report of the Environmental Protection Authority Number: 1392

The implementation of the Proposal to which the above reports of the Environmental Protection Authority relate is subject to conditions and procedures of Statement 894, as amended by the following:

- 1 Condition 5-2 of Statement 894 is deleted.