



## **Environmental Protection Authority Evaluation Program**

**Review of the effectiveness of advice for  
planning schemes and scheme amendments  
that are not assessed under section 48A of the  
*Environmental Protection Act 1986***

**Environmental Protection Authority Report**

October 2016

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## Executive Summary

This report outlines the methodology and key findings of an evaluation into the effectiveness of advice issued under section 48A of the *Environmental Protection Act 1986* (EP Act).

When the Environmental Protection Authority (EPA) decides not to assess a referred scheme or scheme amendment (described collectively as 'schemes') under section 48A, it may provide advice to the responsible authority about environmental issues and management.

Seven local schemes referred to the EPA in the past five years (between 1 July 2010 and 30 June 2015), and four region scheme amendments referred in the past ten years (between 1 July 2005 and 30 June 2015) were evaluated.

Case information from internal files was reviewed and collected from discussions with Department of Planning (DoP) and local government. Advice considered to be impractical was also reviewed as a practice-improvement measure.

## Key Findings

The key findings of the evaluation were:

- The EPA's environmental advice is a critical component of the planning process and should continue to be provided for scheme referrals that are not assessed but for which there are environmental issues that can be managed through the planning process.
- Updating internal templates used for planning scheme referrals could further refine the process, documentation, form and content of EPA advice.
- There is a false perception that 'Not Assessed' means there are no environmental issues. The development of a fact sheet on the EPA referral and assessment process for planning schemes may assist in addressing this.
- Guidance should be provided on the process and circumstances under which a proposal under an assessed scheme can be referred to the EPA. This would assist responsible authorities to meet their obligations under the EP Act.
- The EPA's advice has contributed to good environmental outcomes through the planning process.

## Relationship to EPA Strategic Plan

The Environmental Protection Authority (EPA) has established a program to evaluate its functions and products against its responsibilities as described in the EP Act. The program, initiated in 2015, addressed the EPA's Key Strategy 5 – *Evaluate outcomes* in its 2013-2016 Strategic Plan. The EPA has continued its commitment to evaluation in its 2016-2019 Strategic Plan under Strategy 2 – *Provide robust advice*, and under Strategy 3 – *Provide transparent advice*.

The evaluation program includes a review of the content and effectiveness of advice provided for schemes not assessed under section 48A of the EP Act. This report documents the program's key findings.

## Background

The legal requirement for the referral of all schemes and scheme amendments (collectively referred to as 'schemes') is provided for in the *Planning and Development Act 2005* and was introduced into planning legislation in 1996. The EP Act was consequently amended to provide for the consideration of referred schemes. Part IV Division 3 of the EP Act provides for the environmental impact assessment of schemes referred to the EPA.

Under section 48A of the EP Act, when the EPA receives a referral of a scheme it must decide whether or not to assess it. The EPA must also inform the responsible authority in writing of its decision. Where the EPA decides not to assess, the EPA may give advice and make recommendations to the responsible authority and any other relevant person on the environmental issues raised by the scheme.

The content and effectiveness of this advice is the subject of this evaluation project. This letter is referred to as the EPA's 'advice letter' throughout this report.

Two broad levels of planning are captured through schemes referred to the EPA: region planning schemes; and local planning schemes, which include town planning and district planning schemes. The Western Australian Planning Commission (WAPC) is the responsible authority for region planning schemes (referred to as 'region schemes'). The relevant local government authority is responsible for local planning schemes (referred to as 'local schemes').

The EPA uses its significance framework, factors and objectives to determine whether or not a referred scheme raises environmental issues that require assessment under Division 3 of the EP Act. Most schemes referred to the EPA are considered unlikely to have a significant effect on the environment and are therefore not assessed. This is not to say that there are no environmental issues. Often the environmental issues raised can be managed by the responsible authority at subsequent stages of the planning process in order to avoid significant impact. Where relevant, the EPA would seek to achieve this by influencing environmental outcomes through its advice. The advice and recommendations aim to avoid and manage environmental impacts from the scheme and subsequent development.

The EPA's advice is principally directed to the responsible authority. The provision of advice on schemes is a key component of the work of the Office of the EPA (OEPA) as it involves consultation with responsible authorities or the Department of Planning (DoP) to modify amendments and develop advice on individual referrals. It is also the component thought to achieve the best overall environmental outcomes. At the same time, it is unclear how often EPA advice is implemented, specifically what affect it has on environmental outcomes and whether or not the responsible authorities find it useful.

The EPA has uploaded to its website advice on scheme referrals since 20 March 2013. The advice is intended to assist in the delivery of environmental outcomes through the planning process. Advice should provide assistance for the development of structure plans that support scheme amendments or the inclusion of local scheme provisions. Structure plans often show the expected environmental outcomes through the layout of land use. In region scheme amendments particularly, EPA advice is often not implemented until the local structure planning or development stage, when detailed planning and design processes provide opportunities for the delivery of specific environmental benefits.

## Introduction

This evaluation aimed to determine the level of uptake of advice on planning-scheme referrals by responsible authorities. To achieve this measure of effectiveness a case study analysis was undertaken of non-assessed planning schemes for which advice was issued under s48A(1)(a) of the EP Act.

The following evaluation criteria were used to rate the effectiveness of advice:

Criterion 1: Did it contain practical and technically appropriate recommendations that could be readily implemented by the responsible authority?

Criterion 2: Were recommendations adopted by the responsible authority?

Criterion 3: Were environmental benefits achieved through implementation?

Criterion 4: Were any environmental impacts not considered in the advice?

## Methodology

The methodology for the selection of cases and evaluation of the project is outlined below. The nature of the advice provided by the EPA has changed over time. This project has focused on the most recent EPA advice. Referrals were divided into two year groups:

- 1 July 2010 – 30 June 2015; and
- 1 July 2005 – 30 June 2010.

Selection of cases prioritised referrals that occurred in the past five years.

There is often a time lag between a scheme referral and development on the ground. This is more often the case for region scheme amendments where it may take many years for local planning to occur, for development approval to be granted and on-ground works to commence. To evaluate environmental benefits, adequate information was necessary. Cases were chosen from the earlier year group where sufficient time had passed and either a local structure plan was in place or development had commenced.

### i. Selection of cases

Filtering parameters were developed that aligned with the evaluation criteria. The filters used to select the cases for evaluation were:

- The EPA Chairman's decision on the referred scheme was 'Not Assessed – Advice given';
- The scheme was implemented, particularly that the local planning scheme was implemented;
- Advice related to practical implementation issues; and
- Relevant information was easily available to complete the evaluation.

To determine if a referral could be used, EPA advice letters were assessed against the filtering parameters.

### Definition of practical implementation issues

Determining what elements make good advice was critical to the evaluation of the content and effectiveness of EPA advice provided in section 48A referral decisions. One evaluation criterion was whether the advice contained practical and technically appropriate

recommendations that could be readily implemented by the responsible authority. It was therefore essential to document the definition used to determine whether or not the advice was practical and could be implemented. This meant the evaluation could consistently examine whether advice was effective across all selected cases.

The following elements were used to develop a definition:

- **Relates to EPA's environmental factors:** advice refers to the appropriately identified EPA environmental factors (e.g. Fauna is the relevant factor when providing advice about particular animal species, rather than the use of native vegetation as a factor).
- **Technically accurate:** includes accurate information relating to scientific information on environmental factors.
- **Required:** adds value to the responsible authority (advice is not provided merely to justify the decision not to assess).
- **Targeted:** clear as to how it is to be implemented either through advising of other legal obligations or discussion with other agencies, or specifies at what stage of the planning process the outcome or action is needed (advice is not generic).
- **References EPA policy:** refers to appropriate and current EPA policy and guidelines.

## Local schemes

Initially a subsample of 20 local scheme referrals were randomly chosen from all the schemes referred to the EPA during the time period. The case selection prioritised referrals received between 1 July 2010 and 30 June 2015.

Of the 20 referrals, 16 were referred between 2010 and 2015 and four were referred between 2005 and 2010. These were then filtered to identify five cases for evaluation.

It was recognised that small local governments may not have the expertise to implement the EPA advice and this may make it difficult to evaluate. An additional two cases were chosen from local government areas of major regional towns. It was considered that large local governments with major regional towns would have specialist staff in planning and environment areas, therefore a greater capacity to implement advice.

Seven cases were chosen from local schemes referred between 2010 and 2015. They provided a good state-wide sample across different factors. In each case, the EPA advice could be implemented, and was either specific or general in nature. Chosen cases represented both schemes and amendments to schemes. Refer to Table 1 for the schemes chosen for evaluation.

## Region scheme amendments

Initially the same methodology for local schemes was used. However, suitable scheme amendments from the subsample could not be found. Many of the region scheme amendment referrals in the past five years had not been implemented.

The methodology was amended to review and assess all 95 region scheme amendments referred between 1 July 2005 and 30 June 2015. Four cases were chosen for region scheme amendments referred during the same period. EPA advice for both local and region scheme referrals that did not relate to practical implementation issues were also reviewed to inform practice improvements.

Cases were chosen to provide a mix of region scheme amendments that had been implemented to the local structure plan stage or development stage. The cases chosen had a selection of different factors and issues. For the cases chosen the EPA advice was implementable, but it was either specific or general in nature. The cases chosen represented different local governments, and two different region scheme boundaries. Refer to Table 1 in Appendix A for the schemes chosen for evaluation.

## **EPA advice did not relate to practical implementation issues**

A selection of EPA advice that was not considered to relate to practical implementation issues using the definition developed were chosen for further review in order to inform practice improvements. Refer to Table 2 in Appendix A for the EPA advice chosen to review.

### **ii. Desk-top review of information**

The evaluation methodology utilised desk-top review of the information within the relevant files held by the OEPA, and publicly available planning information. Information was used to assess the case against the evaluation criteria. A spatial viewer was used to examine environmental values of the areas and determine whether on-ground development had commenced. Table 3 in Appendix A outlines the sources of information used for the desk-top review.

### **iii. Technical review of land factors**

Technical review of the cases that contained advice on land factors followed the desk-top review. This was to confirm any environmental benefits that were achieved, any environmental impacts that were not considered through the advice and the presence of technically appropriate recommendations.

### **iv. Review of EPA advice did not relate to practical implementation issues**

Advice considered not practical using the definition developed was reviewed. Issues were noted to support the practical improvements identified through case evaluations. This was to ensure solutions were fit for purpose.

### **v. Consultation with stakeholders**

The following stakeholders were identified:

- DoP in relation to its role supporting the WAPC to make region scheme amendments, approve or endorse local structure plans, approve subdivisions and generally oversee the planning process.
- Local government in relation to local schemes and planning decisions.

Consultation clarified evaluation outcomes from the desk-top review and collected further information on whether the advice was implemented, and how the EPA can improve its advice to the WAPC, DoP and local governments in relation to:

- awareness of the advice;
- content of advice;
- usefulness of the advice;
- how the advice is used;
- practical implementation of the advice for planning; and
- how the EPA can make its advice practical for planners.

The consultation was used to confirm whether the advice was adopted and, where relevant, why it was not. It also confirmed whether environmental benefits were achieved.

Questions prepared to guide discussion were provided to stakeholders in advance.

## Results

Evaluation results are summarised in Appendix B.

### i. Discussion with stakeholders

Consultation with local government and DoP representatives was conducted where possible in person, or by email and phone. Not all of the local governments were able to respond due to their capacity or size. In some cases the officers involved in the scheme amendment no longer worked at the local government.

Comments from stakeholders varied. For example, most of the DoP officers found the EPA's advice very helpful, whereas a few officers found it very technical and difficult to implement from a planner's perspective. Comments between local governments and the DoP were generally similar, with only a few exceptions, such as the comments from the Case 6 local government. Local government planners from Case 6 felt that the EPA advice provided a function to confirm what the planners should already know. It was felt that good planners should have an understanding of the issues, including the environmental issues, for an area and are best placed to determine how the issues should be addressed in the planning process. The local government planners from Case 6 also posed an alternative view to other stakeholders with reference to the provision of specific advice. Too-specific advice could become dated and irrelevant for planners due to the time it takes to plan and develop an area.

There were mixed views regarding EPA decisions to not assess scheme amendments. Some planners believed this meant that there were no environmental issues. Others understood that a not-assessed decision may mean environmental issues need to be resolved through the planning process. A few planners said that if there were environmental issues and the EPA chose not to assess, it was up to the planner to decide whether or not to implement the advice but that it was not incumbent upon them to do so.

Some internal DoP process improvements were identified through discussions with the DoP. This included providing the OEPA with a copy of the final scheme decisions in order to close the loop. This would allow the OEPA to view scheme amendment outcomes and whether EPA advice has been implemented. It was recognised that the DoP lacked an internal mechanism for ensuring EPA advice is considered at each stage of planning. The DoP representatives suggested a register could be developed to ensure advice is implemented from region scheme to subdivision.

Key comments from discussion were recorded and are held by the OEPA. Specific comments relating to each case are summarised in Appendix B.

### ii. Review of EPA's advice not considered practical

The review of advice letters showed the advice varied in content, format and structure, and was provided for a variety of reasons.

The OEPA often receives referral documentation that includes commitments by developers or landowners that are not noted in the scheme provisions. Such statements include commitments for the provision of adequate buffers or for development to occur within areas already cleared. This is particularly relevant for region scheme amendments as in practice they do not include scheme text provisions. Correspondence from the EPA needs to document such written commitment, which can otherwise be too easily forgotten when it comes to a local planning scheme amendment, structure plan or subdivision.



## Discussion

Some preliminary outcomes were identified early in the evaluation from the review of more than 115 EPA advice letters for the cases selected.

It was critical during the review to question whether or not the advice was needed in the first place. In some cases it appeared to have been provided in order to explain the assessment decision rather than as a source of guidance for practical implementation. When the EPA Chairman makes a decision on referred schemes, the record of the decision, along with the environmental factors, potential significant effects and management are documented. This information generally provides reasoning for the decision along with key considerations. Providing justification for the decision is usually included in the advice, however this is not considered to be practical or related to implementation issues. Instead the information contained in the Chairman's decision should be included as part of the referral and decision details in the letter notifying the responsible authority of the decision. This would provide the justification for the decision regardless of whether EPA advice is needed to guide future decision making.

EPA advice letters should include a map showing the amendment area, otherwise it may be impossible to determine which area the advice relates to. If the Scheme Amendment Report is not available on the DoP's website or on the relevant file it is very difficult, and in some cases impossible, to work out what parcels of land the advice relates to.

Prior to the introduction of Environmental Assessment Guideline No. 8 Environmental principles, factors and objectives, the issues and factors identified in advice were inconsistent. Sometimes it was unclear as to what the relevant factors were without reading the whole of the advice and having some level of environmental understanding.

From an initial review it was unclear how advice was expected to be implemented through the planning process and was found to be generic in nature. Advice mostly covered environmental issues that did not always translate to practical advice that could be easily implemented by planning decision makers. In some cases, EPA advice letters referred to attached advice, which referred to further attached advice, which was not in fact attached. Process improvements have since addressed most of these issues.

The referrals review found that advice incorporating 'deferred factors' often related to practical implementation issues. In the past there had been a practice of 'deferring factors' in EPA advice letters for scheme referrals that were not assessed. Sometimes scheme amendment referrals did not provide the level of detailed information required to determine whether the region scheme amendments raised any environmental issues. Where this occurred, the EPA provided advice on the likely environmental issues raised by the region scheme amendment. It was noted in the advice letter to the responsible authority that certain environmental issues were not assessed as part of the EPA's decision. This would then be termed 'deferred factors' and the letter would include information regarding section 48I of the EP Act, which deals with the referral of a proposal under an assessed scheme. The term 'assessed scheme' is defined in the EP Act but has different interpretations depending on which section of the EP Act applies. In this situation an assessed scheme includes one that the EPA did not assess but for which advice was provided (under section 48A (1) (a)). With deferred factors, there was an expectation that environmental issues would be addressed at a later stage of planning or development. This would be achieved if the environmental issues were addressed through planning so that no significant environmental impacts occurred (consistent with the EPA advice provided). Where this was not possible, a proposal would be referred to the EPA under section 38, consistent with the provisions of section 48I.

The practice of deferring factors is no longer used in EPA advice letters. Stakeholders advised that they preferred to have issues identified early and then dealt with at the appropriate planning stage. In some cases, factors were deferred and the local scheme

amendment occurred concurrently with the region scheme amendment. This meant the EPA had no opportunity to view the proposed local scheme amendment and recommend to the responsible authority to include local scheme provisions addressing environmental issues. The process relies on responsible authorities making a decision under section 48I and referring proposals to the EPA under section 38. Stakeholder engagement also revealed a mixed understanding of obligations under the provision, and that some planners were wholly unaware of it.

Guidance on when and how section 48I of the EP Act should apply would be beneficial, perhaps through administrative procedures for the planning scheme provisions and in guidance material.

Recent changes to EPA letters and advice templates have improved consistency. However, the review found that further refinements would support a more consistent approach for planning referrals and the communication around it. Retaining a level of flexibility will ensure that EPA letters are fit for purpose and relate to issues relevant for any particular scheme amendment.

### **Criterion 1: practical, technically appropriate and readily implementable advice**

This criterion evaluated whether the EPA's advice contained practical and technically appropriate recommendations that could be readily implemented. The most effective advice was found to be specific and practical. It appropriately referenced EPA guidance and could be realistically implemented through the planning process.

In Case 8, advice was provided for the region scheme amendment, however none was provided for the local scheme amendment. Local-government feedback showed that advice could help identify further actions that may be needed at the local level.

Engagement with local government and the DoP identified that spatial representation of advice would assist planners. For example, EPA advice recommending the protection of a specific area with important biodiversity values could include a map identifying the location of those values.

### **Criterion 2: Responsible Authority application of advice**

This criterion evaluated whether the recommendations of the advice were adopted by the responsible authority. Most planners interviewed thought the EPA's advice helped them ensure environmental issues were adequately dealt with.

The general response from local governments and the DoP was that most or all of EPA advice is adopted. Most local government representatives interviewed were aware that EPA advice under section 48A is not mandatory. EPA advice was often implemented as part of the structure plan. Review of information (including spatial information) demonstrated that the EPA's advice was adopted in most cases.

The EPA advice was implemented for Case 7 and was particularly relevant when the local structure plan was referred to the State Administrative Tribunal. The EPA's advice was heavily scrutinised and language such as 'support', 'consider', 'must', 'noted', 'recommends' and 'should' examined to determine the weight attributed to the advice. Local government and DoP Feedback highlighted the importance of particular words in the advice and the level of expectation regarding implementation.

In cases that included deferred factors some but not all of the advice was adopted by the decision maker. In Case 9, a buffer between a livestock holding facility and sensitive land uses successfully mitigated impacts. The advice was used throughout region scheme amendment, lifting of urban deferment, and structure planning processes. The land use buffer was implemented through the lifting of urban deferment. The livestock holding facility is still in operation and the buffer area remains Urban Deferred. The other areas

of land within the original amendment area have been progressively zoned Urban and developed. The issue of having an appropriate buffer was raised by the local government as a significant concern.

Better advice about when and how to comply with provisions in section 48I needs to be provided to local governments and the DoP. The review identified an expectation that certain activities - such as vegetation, flora or fauna surveys - would be undertaken at later stages of the planning process. This was particularly relevant for cases in which insufficient information was provided and factors deferred. There was also an expectation (either inferred or stated in the EPA's advice) that the responsible authority would refer a proposal if at a later stage significant impacts were found to be likely. But this does not happen in practice. Interviews with local government and the DoP verified this assertion. Very few planners were aware of the provision or its implications.

The remnant vegetation and fauna issues identified in Case 6 were deferred. To date, the planning and development of the amendment area has focused on the urban area. Flora and fauna surveys have occurred for the majority of the urban areas, consistent with the preliminary EPA advice. The most significant part of the amendment area for remnant vegetation and fauna related to the proposed road reserve realignment through the Bush Forever site. The road has yet to be developed and there may be the requirement for the road proposal to be referred to the EPA. The advice provided on the remnant vegetation and fauna has therefore not been implemented. The management of remnant vegetation issues and fauna for the development of the road and impacts to the Bush Forever site will rely on the responsible authority's awareness of the issue when the road is developed. The responsible authority will need to either refer the road proposal to the EPA or ensure the required surveys are completed and impacts are not significant.

Discussion with local government and DoP officers confirmed the importance of EPA advice. It was found to assist planners to improve environmental outcomes. Pre-referral advice on region scheme amendments were also considered very important in managing environmental impacts.

EPA advice is non statutory and not always implemented, despite the best intentions. If there are significant environmental issues the view of the DoP representatives was that the scheme should be assessed through the provisions in Part IV Division 3. They suggested process improvements to better capture the EPA's advice through each planning stage.

### **Criterion 3: Environmental benefits achieved**

This criterion identified environmental benefits achieved through implementation of the advice. The evaluation of the criterion was determined on the basis of feedback from responsible authorities, technical review and review of structure plans. Where advice related to conservation of wetlands, such as Case 9, the wetlands and buffers were identified as retained.

Interviews with local government revealed that EPA advice imparts confidence, strengthens local government position, and achieves environmental benefits. Perceived environmental benefits included:

- completion of management plans related to environmental water quality and wetland rehabilitation;
- notifications on title for native vegetation;
- purchase of reserves; and
- discouragement of development in areas.

Although the Case 6 local government planning officers felt they had a good understanding of the issues, the advice provided further valuable guidance on contaminated sites. The EPA advice provided detail needed to ensure contamination issues were adequately

dealt with. Without it, they said, remediation may not have been as effective. From an environmental perspective, contaminated sites are dealt with through specific legislation, with specialist guidance and regulation through the Department of Environment and Regulation. This was a key issue for the amendment area as zoning was changing from Industrial to Urban Deferred. The guidance in the EPA's advice was found to contribute to good environmental outcomes.

Most cases saw good environmental outcomes result from EPA advice. The evaluation process and outcomes of the project have been insightful.

Sometimes amendments are changed after the EPA has provided advice, however the OEPA does not receive the final result. It would be of assistance for DoP to provide the final outcome of scheme amendments to the OEPA. This would assist in the evaluation of outcomes and provide an important feedback loop.

#### **Criterion 4: Environmental impacts not considered**

This criterion identified environmental impacts that were not considered through the advice.

Local government interviews revealed that no additional environmental issues were overlooked at the time of the referral. However, feedback in relation to bushfire management in Case 1 and Case 10 was identified. In Case 1, the issue was the potential impact resulting from application of new Bushfire Regulations 2015. For Case 10, it was the issue of fire risk management with regard to close proximity to Crown Reserves. However, this could not have been envisaged at the time the advice was prepared.

Other local government interviews could not take place. Analysis showed that Case 5 might well have had a better environmental outcome. The EPA recommended in its advice that a portion of land be zoned Conservation. However, the portion was a linear reserve surrounded by land zoned as Residential, where it was likely the condition of the reserve would decline over time. A better environmental outcome would have been to zone the greater area surrounding the proposed reserve, which had significant vegetation throughout.

## **Conclusion**

The evaluation indicated that advice is an effective tool in assisting the EPA to meet its objectives. Provision of EPA advice for planning scheme referrals assists planners to achieve good environmental outcomes.

## Appendix A

**Table 1: Cases chosen for evaluation**

Case No.	Scheme Type	Description	Date referred
Case 1	Local Planning Scheme Amendment	Rezoning from Rural 1 to Rural Residential	21/09/2010
Case 2	Town Planning Scheme Amendment	rezoning from General farming to Small Holding	27/01/2012
Case 3	Town Planning Scheme Amendment	reclassifying from Recreation and Open Space to Public Purposes	06/03/2012
Case 4	Local Planning scheme	New Scheme	27/06/2011
Case 5	Town Planning Scheme	New Scheme	13/09/2010
Case 6	Region Scheme Amendment	District Structure Plan Area	27/08/2009
Case7	Region Scheme Amendment	Transfer about 62 hectares of land from Rural zone to Urban zone	29/08/2012
Case 8	Region Scheme Amendment	Industrial Precinct	8/07/2011
Case 9	Region Scheme Amendment	Structure Plan Cell 5 Rural to Urban Deferred	20/02/2006
Case 10	Town Planning Scheme Amendment	rezoning from 'Rural' to 'Residential Development'	09/09/2011
Case 11	Local Planning Scheme Amendment	rezoning from 'Rural' to 'Development'	12/07/2011

**Table 2: EPA advice chosen to review**

Advice No.	Scheme Type	Description	Date referred
Advice 1	Town Planning Scheme Amendment	Rezoning & Reservations to Recreation and Conservation	13/05/2009
Advice 2	Region Scheme Amendment	Parks and Recreation Reservation Boundary rationalisation	11/11/2011
Advice 3	Region Scheme Amendment	Rezoning from rural to Urban	20/09/2010
Advice 4	Region Scheme Amendment	Redevelopment	30/11/2010
Advice 5	Region Scheme Amendment	Structure Plan area	13/02/2012
Advice 6	Region Scheme Amendment	Redevelopment	12/03/2014
Advice 7	Region Scheme Amendment	Transit Orientated Development Precinct	11/01/2010
Advice 8	Region Scheme Amendment	Rezoning from Rural to Industrial	11/02/2010
Advice 9	Region Scheme Amendment	Town expansion	20/09/2010

**Table 3: Sources of information used in the evaluation**

Information Source	Information Gathered
Scheme referral documentation	Identify likely environmental impacts proposed by the scheme
EPA advice on referred scheme	<p>Relevant environmental factors.</p> <p>Was the advice technically appropriate, given the potential impacts?</p> <p>Were there any meetings with the responsible authority or proponent or developer or consultant to discuss the advice and influence the expected environmental outcomes?</p> <p>Was the advice informed by technical information provided internally or from other agencies (e.g. Departments of Water, Parks and Wildlife, Environment and Regulation)?</p>
Structure plans	<p>Did the area affected by the scheme or scheme amendment relate to a District Structure Plan, and is the Structure Plan consistent with the EPA advice?</p> <p>Did the EPA provide advice on the Structure Plan?</p>
Town planning scheme	<p>Was the advice applied to the Town Planning Scheme (TPS)?</p> <p>Was there any relevant information included in the scheme text or map?</p> <p>Were there any additional provisions added to the TPS to implement the EPA's advice?</p>
Local Structure Plan	<p>If required, is the Local Structure Plan consistent with the EPA advice?</p> <p>Did the EPA provide advice on the Local Structure Plan?</p>
Subdivision or development approval stage	<p>Was the advice relevant to any issues at subdivision or development stage?</p> <p>Is the subdivision design or outcomes consistent with the EPA advice?</p> <p>What are the environmental outcomes (e.g. areas protected, buffers etc)?</p> <p>Were other decision making authorities responsible for implementing environmental outcomes (eg Department of Water)?</p>
Aerial photography	<p>Can actual environmental outcomes be observed (e.g. protection of a buffer around a wetland)?</p> <p>Was the EPA advice influential in achieving these outcomes?</p>

## Appendix B: Overall summary of scheme evaluation results

### Notes:

- \* this includes whether the referral documentation covered-off relevant environmental impacts and addressed management of environmental issues
- \*\* the advice included information that met the criteria for good advice:
  - i. relate to EPA's environmental factors: discussion refers to the identified EPA environmental factors in the headings
  - ii. technically accurate: includes accurate information relating to scientific information on environmental factors
  - iii. required: adds value to the Responsible Authority (advice isn't provided to justify the level of assessment decision)
  - iv. targeted: clear as to how it is to be implemented either through advising of other legal obligations or discussion with other agencies or specifies at what stage of the planning process the outcome or action is needed (advice is not generic)
  - v. reference EPA policy: refers to current EPA policy and guidelines
- \*\*\* the advice can be readily implemented by a decision maker, preferably through the planning processes (identifies planning stage, mechanisms and tools) and clearly outlines what needs to occur.

Case 1	Local Scheme Rezoning from Rural to Rural Residential
Environmental Factors (Record of Decision)	Native vegetation; Surface water quality and quantity
Environmental Factors (Letter of Advice)	Flora and Vegetation; Management of water quality and quantity
Was the referral information adequate to assess impacts? *	Yes
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p><b>Flora and Vegetation</b></p> <p>The EPA advice did not contain technically appropriate recommendations and was not the relevant environmental factor.</p> <p><b>Management of Water Quality and Quantity</b></p>
Was EPA advice practical? ***	The EPA advice contained technically appropriate recommendations as it referred to a local water management strategy to deal with effluent.
EPA advice was adopted by the responsible authority	<p>All advice has been implemented into the structure plan.</p> <p>A flora and fauna study was done and clearing of native vegetation notifications on title.</p> <p>The local government is working with the Department of Water to implement a local water management strategy.</p>
Environmental improvements that were achieved through the advice	<p>Yes there has been an environmental improvement including:</p> <ul style="list-style-type: none"> <li>- Management of water quality through drain and easement management plans</li> <li>- Clearing of native vegetation notifications on title</li> <li>- Purchase of the foreshore reserve</li> <li>- drainage under the road</li> </ul>
Identify any significant environmental impacts that were not considered through the advice	The only additional issue that was not contemplated at the time of the scheme referral was the impact resulting from the new Bushfire Regulations 2015. However this is not something that could have been included at the time.



Case 2	Local Scheme Rezoning from General Farming to Small Holding
Environmental Factors (Record of Decision)	Remnant vegetation; Water quality and quantity
Environmental Factors (Letter of Advice)	Remnant vegetation; Wetlands
Was the referral information adequate to assess impacts? *	Yes
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p><b>Remnant Vegetation</b></p> <p>The EPA advice for Remnant Vegetation did not contain technically appropriate recommendations as Fauna is also a relevant environmental factor.</p>
Was EPA advice practical? ***	<p>The advice in relation to a clearing permit is practical, however the advice referring to obligations under other agencies and reference to EPA guidance was not practical.</p> <p><b>Wetlands</b></p> <p>The EPA advice for Wetlands did not contain technically appropriate recommendations and was not practical. The advice confirmed and restated the protection of wetlands as detailed in the referral documentation provided by the local government.</p>
EPA advice was adopted by the responsible authority	Yes, all advice has been implemented as conditions.
Environmental improvements that were achieved through the advice	Yes through the wetland rehabilitation plan.
Identify any significant environmental impacts that were not considered through the advice	<p>No new additional environmental issues.</p> <p>The advice could have been more targeted and include information about the vegetation complex, possible fragmentation and building envelopes. Include recommendations to avoid impacts.</p>

Case 3	Local Scheme Reclassifying from Recreation and Open Space to Public Purposes
Environmental Factors (Record of Decision)	Sensitive Land Uses - buffers
Environmental Factors (Letter of Advice)	Sensitive Land Uses
Was the referral information adequate to assess impacts? *	Yes
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p><b><i>Sensitive Land Uses</i></b></p> <p>The EPA advice contained technically appropriate recommendations to defer the development until the Waste Water Treatment plant is relocated.</p>
Was EPA advice practical? ***	<p>However the advice is not practical even though it guided future decision making and brought awareness to the issue of separation distances/buffers it lacked clarity and solution.</p>
EPA advice was adopted by the responsible authority	<p>Yes the advice was useful with regard to pointing out the issue of separation distances/buffers. However, it needed guidance, indicators, and type of method/study or agency to seek this advice in relation to studies that are required to demonstrate that a reduction in the generic buffer is warranted.</p>
Environmental improvements that were achieved through the advice	<p>Yes as development has been discouraged within the 500m buffer around the existing waste water treatment plant. More so if the waste water treatment plant is moved.</p>
Identify any significant environmental impacts that were not considered through the advice	<p>No new additional environmental issues.</p>

Case 4	Town Planning Scheme No. 2
Environmental Factors (Record of Decision)	Native vegetation; Aboriginal heritage
Environmental Factors (Letter of Advice)	Native vegetation; Aboriginal heritage
Was the referral information adequate to assess impacts? *	No. Further information was requested from the local government.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p><b>Native Vegetation</b></p> <p>The EPA advice did not contain technically appropriate recommendations and was not practical. The advice was too general. The factor should have been flora and vegetation, not just vegetation.</p>
Was EPA advice practical? ***	<p><b>Aboriginal Heritage</b></p> <p>The advice contained technically appropriate recommendations. However the advice was not practical as it referred to consultation with DIA regarding obligations to aboriginal sites.</p>
EPA advice was adopted by the responsible authority	The local government was not able to provide feedback.
Environmental improvements that were achieved through the advice	The local government was not able to provide feedback.
Identify any significant environmental impacts that were not considered through the advice	<p>The advice could have discussed the priority ecological communities within the area as well as threatened and priority flora.</p> <p>It would therefore be important for appropriate survey to take place prior to any development.</p>

Case 5	Town Planning Scheme No. 4
Environmental Factors (Record of Decision)	Native vegetation
Environmental Factors (Letter of Advice)	Native vegetation
Was the referral information adequate to assess impacts? *	No. Further information was requested from the local government.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<b>Native Vegetation</b> The advice did not contain technically appropriate recommendations and was not practical. The advice confirmed the agreement between the local government and OEPA to rezone an area to 'conservation'.
Was EPA advice practical? ***	
EPA advice was adopted by the responsible authority	The local government was not able to provide feedback.
Environmental improvements that were achieved through the advice	The local government was not able to provide feedback.
Identify any significant environmental impacts that were not considered through the advice	There is a ~36 ha patch of remnant woodland vegetation north of the current townsite. The vegetation in this remnant is classified as having less than 10% of its pre-European extent remaining. Additionally, 36 ha is a relatively large area of remnant woodland vegetation in this part of the Wheatbelt (this local government has 4.9% of its native vegetation remaining).  Although the Reserve contains significant vegetation, the advice to rezone as 'conservation' does not seem appropriate. The Reserve is a linear reserve (50 m wide) surrounded by land zoned as residential. This is not a good design for a conservation area and it is likely that its condition would decline over time despite its zoning.  The TPS is inconsistent with Position Statement 2.

Case 6	Region Scheme Amendment Industrial Zone to Urban Deferred and realignment of Primary Regional Road
Environmental Factors (Record of Decision)	Contamination, remnant vegetation and fauna
Environmental Factors (Letter of Advice)	Contamination, remnant vegetation and fauna
Was the referral information adequate to assess impacts? *	No – there was inadequate information to assess remnant vegetation and fauna so these factors were deferred.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	The EPA advice provided for the MRS Amendment provided some practical advice for the contaminated sites issues. Advice required further site investigations in consultation with DEC and in accordance with the <i>Contaminated Sites Act 2003</i> .
Was EPA advice practical? ***	<p>No further information or advice is provided for fauna and remnant vegetation as these factors were deferred. No information is provided about what is required at later stages of planning, or who is responsible. The advice recommends further consideration of the need to assess proposals arising from the schemes amendment when more information is available.</p> <p>The EPA’s environmental issues and advice identified was refined from the initial advice provided on the proposed scheme amendment.</p> <p>The preliminary EPA advice provided for the proposed MRS amendments is detailed and covers a number of issues:</p> <ul style="list-style-type: none"> <li>• Contamination</li> <li>• Remnant vegetation</li> <li>• Regional Park</li> <li>• Fauna</li> <li>• Water Management</li> <li>• Waste Water treatment</li> <li>• Noise</li> <li>• Separation distances</li> </ul> <p>The advice provided is practical and identified the need for: contaminated sites investigations, vegetation and flora surveys, fauna surveys, better urban water management, noise surveys and predictions. It supported the proposed road realignment. It provided practical advice on noise attenuation options and consideration of buffers to sensitive land uses.</p> <p>It was recommended that flora and fauna surveys were done prior to detailed structure planning.</p>

<p>EPA advice was adopted by the responsible authority</p>	<p>The EPA’s advice was included in the WAPC’s Amendment Report that was advertised through the public consultation period. The changes to the Amendment had little bearing on any of the environmental impacts. It appears that adequate understanding of the impacts on the Regional Park, particularly fauna impacts, remained an issue to be dealt with at subsequent planning stages.</p> <p>The DEC submission highlighted the vegetation assessment completed was only in a confined area. Therefore, the conclusion that the areas to be impacted would be degraded may not have been technically correct.</p> <p>At the local level the local government did implement the advice.</p> <p>The contaminated sites advice has been implemented.</p> <p>The TPS has provisions for the development of a Local Water Management Strategy Noise and Vibration Management Plan and a Foreshore Management Plan as part of the Local Structure Plan.</p> <p>Structure plans have considered noise and better urban water management.</p> <p>It appears that flora and fauna surveys have taken place within the urban areas where relevant, as they are referred to in later plans (e.g. district structure plans).</p> <p>It appears from the information available that very little has been done to understand the impacts on the Bush Forever site (Regional Park).</p>
<p>Environmental improvements that were achieved through the advice</p>	<p>The local government planners thought that a greater lever of site remediation occurred due to the EPA advice. Without the EPA advice for contamination the local government planners would not have been aware of the guidance and requirements.</p>
<p>Identify any significant environmental impacts that were not considered through the advice</p>	<p>The implementation of the road realignment has yet to occur.</p> <p>Subsequent stages of approval have not been referred to the EPA, so the OEPA has not seen the outcomes of the flora and fauna surveys. In the absence of these surveys it is not possible to determine whether later elements of the proposal should have been referred to the EPA or not.</p>

Case 7	Region Scheme Amendment Rural to Urban zone Concurrent TPS amendment
Environmental Factors (Record of Decision)	Vegetation and landform
Environmental Factors (Letter of Advice)	Vegetation and landform
Was the referral information adequate to assess impacts? *	Yes – there was adequate information provided.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p>Yes – based on the degraded site, the advice focused on the best environmental outcome.</p> <p>Yes, it is clear that it has been considered through the planning process and the OEPA has been asked to provide advice on the Outline Development Plan (ODP#) to ensure it met the outcomes of the advice.</p>
Was EPA advice practical? ***	<p>The ODP went to the State Administrative Tribunal (SAT) for determination as there were differences of opinion between the local government and the developer regarding the implementation of the East-West ecological corridor. From discussions with the local government and the DoP the individual words used in the EPA's advice were heavily scrutinised at SAT.</p> <p>#Note: the ODP has been finalised as the Local Structure Plan and approved by the WAPC.</p>
EPA advice was adopted by the responsible authority	<p>The EPA's advice was used as the basis of some submissions and objections to the RS Amendment.</p> <p>In considering the retention of an east-west ecological corridor the WAPC's Report on Submissions referred to a previous EPA assessment for urban development in the area in 1992 where an expanded foreshore reserve rather than an east-west linkage would provide greater environmental outcomes, and this could be considered for area in the future.</p> <p>In 1999 when the Region Scheme was advertised, 31 submissions recommended the east-west corridor be included in Regional Open Space (ROS) reservation and the WAPC determined that the east-west ROS would not function as an ecological corridor as most of the vegetation had been cleared. A second determination was that ROS wedges would not provide a strategic visual break between urban areas of two local governments, and they do not contain environmental values which would not justify reservation of the land.</p> <p>At the local level the local government did try to implement the advice. There were five different versions of the ODP all with slight differences in POS and east-west linkage, all different interpretations of the EPA's advice. The local government tried to change the ODP to provide for community expectations, which were consistent with the EPA's advice. The issue was resolved at SAT.</p>

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Environmental improvements that were achieved through the advice	The Local Structure Plan (2016) did incorporate the EPA's advice to retain the highest dune and have a larger than usual foreshore reserve that included Graceful Sun-moth habitat and good quality vegetation.
Identify any significant environmental impacts that were not considered through the advice	There was good condition vegetation adjacent to the RS amendment area that was not considered as part of the Local Structure Plan. The EPA advice did not comment on the areas outside of the RS amendment area.

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Case 8	Region Scheme Amendment Rural zone to the Industrial zone and rationalise the Bush Forever
Environmental Factors (Record of Decision)	Remnant vegetation, water quality and wetlands
Environmental Factors (Letter of Advice)	Remnant vegetation, water quality and wetlands
Was the referral information adequate to assess impacts? *	No – focus was on the negotiated planning solution, environmental reports not included. Pre-referral information contained relevant information.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	Partially. Advice for wetlands, water quality and quantity factors was considered practical. The advice provided guidance for storm water management and better urban water management.
Was EPA advice practical? ***	Advice for remnant vegetation (Bush Forever site X) could have been better focused on the Bush Forever site and any requirements needed at local planning stage.
EPA advice was adopted by the responsible authority	The Department of Planning (DoP) was the lead agency for negotiating the Negotiated Planning Solution (NPS) for the Bush Forever Site. There were several complexities to resolve: land ownership, basic raw material extraction, road reserve, industrial development. DoP negotiated an outcome to balance this. The remainder of the Bush Forever site that was retained would have a conservation covenant on it.  At a local level the District Planning Scheme (DSP) Amendment did not include EPA advice. From discussions with the local government, it would have been beneficial to have EPA advice on requirements to manage impacts to the Bush Forever site. The Bush Forever site is zoned “Rural Community”.
Environmental improvements that were achieved through the advice	Comments from the DoP Policy section regarding the NPS identified that it was disappointing the Bush Forever site is zoned Rural Community in the local planning scheme as this can have development. However there was limitations to what could have been achieved through the NPS due to the complexities of the issues.  From discussions with local government there are a number of provisions and requirements in place to protect and manage the Bush Forever Site at a local level: <ul style="list-style-type: none"> <li>• Provisions in the DPS controlling development;</li> <li>• Provisions in the DSP for the development of a Local Structure Plan;</li> <li>• Structure Plan provisions require a rehabilitation and management plan;</li> </ul>

(cont.)

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	<ul style="list-style-type: none"><li>• Subdivision approvals are controlled</li><li>• A revegetation Plan must be prepared and implemented.</li><li>• Conservation covenant over the area.</li></ul> <p>Department of Parks and Wildlife confirmed that a restrictive covenant was in place 24/8/2012.</p>
Identify any significant environmental impacts that were not considered through the advice	None identified.

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Case 9	Region Scheme Amendment Rural to Urban Deferred Concurrent TPS amendment when Urban Deferred was lifted
Environmental Factors (Record of Decision)	Drainage, special catchment (Peel Harvey), wetlands, remnant vegetation, fauna, solid and groundwater contamination, impact on sensitive land uses and noise and vibration.
Environmental Factors (Letter of Advice)	Drainage, special catchment (Peel Harvey), wetlands, remnant vegetation, fauna, solid and groundwater contamination, impact on sensitive land uses and noise and vibration.
Was the referral information adequate to assess impacts? *	No – factors were deferred
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	Yes – advice was detailed for each issue and contained information as to what was expected at the later stages of planning.
Was EPA advice practical? ***	Yes – buffer to address odour impacts, water management done through planning process, conduct surveys prior to structure planning, retain wetland buffers and vegetation through structure planning.
EPA advice was adopted by the responsible authority	<p>Yes – lifting of Urban Deferred did not occur until the buffer was adequately addressed, consequently Urban Deferred remains within the buffer to manage impacts.</p> <p>The district structure plan did not appear to address all of the EPA's advice.</p> <p>Wetlands and their buffers were retained through local structure planning.</p> <p>Water management was dealt with through the District Water Resource Management Strategy which identified additional studies needed at structure planning stage. Local water management Strategy was prepared.</p> <p>Flora and fauna surveys were completed to inform local structure planning.</p> <p>No specific provisions were in the town planning scheme due to concurrent amendment with the lifting of Urban Deferred.</p>
Environmental improvements that were achieved through the advice	<p>Yes, buffers appear to be in place for the large wetland. Odour buffer in place through management of Urban/ Urban Deferred zoning to manage impacts from the livestock holding facility and urban dwellings.</p> <p>The process used to manage odour was found to be very successful. The EPA's advice was requested before action was taken to lift urban deferment to ensure odour impacts were managed.</p>
Identify any significant environmental impacts that were not considered through the advice	None identified

Case 10	Local Scheme Rezoning from Rural to Residential Development
Environmental Factors (Record of Decision)	Native vegetation; water quality and quantity
Environmental Factors (Letter of Advice)	Native vegetation; water quality and quantity
Was the referral information adequate to assess impacts? *	No. Further information was requested from the local government.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<p><b>Native Vegetation</b></p> <p>The advice contained appropriate recommendations. The advice is practical as it referred to the consideration of establishing a revegetation buffer to provide protection for a community of significant vegetation.</p>
Was EPA advice practical? ***	<p><b>Water Quality and Quantity</b></p> <p>The advice contained appropriate recommendations. The advice is practical as it referred to the development of a foreshore management plan to ensure adequate protection of the existing creek line and the water quality and quantity that enters the River.</p>
EPA advice was adopted by the responsible authority	Yes, the advice is being incorporated into the Structure Plan for a broader area that encompasses the amendment area.
Environmental improvements that were achieved through the advice	The advice has not yet been fully implemented on ground as the developers are not at that stage. However, EPA advice gives confidence and strengthens local government's position.
Identify any significant environmental impacts that were not considered through the advice	The only additional issue that was not contemplated at the time of the scheme referral was the issue of fire risk management with regard to close proximity to Crown reserves.

Case 11	Local Scheme Rezoning from Rural to Development
Environmental Factors (Record of Decision)	X Ranges#
Environmental Factors (Letter of Advice)	X Range Landscape Special Control Area and Drainage
Was the referral information adequate to assess impacts? *	No. Further information was requested from the local government.
Was EPA advice needed?	Yes
Did the EPA advice contain technically appropriate recommendations? **	<b><i>X Range Landscape Special Control Area and Drainage</i></b> The advice contained technically appropriate recommendations. The advice is practical as it referred to support for the provision of Public Open Space (POS), formalisation and preparation of a POS Management Plan for a portion of the site with remnant vegetation.
Was EPA advice practical? ***	The factor would have best been Landform.
EPA advice was adopted by the responsible authority	The local government was not able to provide feedback.
Environmental improvements that were achieved through the advice	The local government was not able to provide feedback.
Identify any significant environmental impacts that were not considered through the advice	The local government was not able to provide feedback.

# X has been used in place of the location to maintain anonymity.

