

Mr Ian McCabe  
Chief Executive Officer  
Shire of Capel  
PO Box 369  
**CAPEL WA 6271**

Our Ref: CMS17487  
Enquiries: Stephen Pavey, 6364 7600  
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Dear Mr McCabe

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

**SCHEME:** Shire of Capel Town Planning Scheme 7  
Amendment 67  
**LOCATION:** Lots 120 and 121 Minnipup Drive, Dalyellup  
**RESPONSIBLE AUTHORITY:** Shire of Capel  
**DECISION:** Referral Examined, Preliminary Investigations  
and Inquiries Conducted. Scheme Amendment  
Not to be Assessed Under Part IV of EP Act.  
Advice Given. (Not Appealable)

Thank you for referring the above proposed scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.

- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Sutton', written in a cursive style.

**Anthony Sutton**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

25 February 2019

Encl. Scheme Advice and Recommendations

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

**CMS17487 Shire of Capel Town Planning Scheme 7 Amendment 67**

**Location:** Lots 120 and 121 Minninup Road, Dalyellup

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

**Determination Published: 25 February 2019**

**Summary**

The Shire of Capel proposes to amend the Special Rural (Schedule 6) provisions applicable to the former Killerby's Winery and Vineyard site (Lots 120 and 121 Minninup Road, Dalyellup) in order to facilitate rural residential development.

Lots 120 and 121 are cleared land formerly developed as a winery and vineyard. The winery has ceased operation with the vines and infrastructure mostly removed. Remnant trees remain around the disused winery operation.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the documentation provided by the Shire of Capel (the Shire). Having considered this matter, the following advice is provided.

**Environmental Factors**

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

- Inland Waters;
- Flora and Vegetation;
- Terrestrial Fauna.

**Advice and Recommendations regarding Environmental Factors**

Land immediately to the north, east and west of the amendment area is reserved in the Greater Bunbury Region Scheme as Regional Open Space (ROS). To the south is Five Mile Brook diversion drain.

**Inland Waters**

The amendment area is adjacent to Conservation Category Wetland (CCW) and within a Priority 3 Public Drinking Water Source Area which is a sewage sensitive area. The shire's objectives for land zoned Special Rural include land uses such as hobby farms, intensive agriculture including market gardens and the keeping of stock. As there is no reticulated sewage system available development will require the use of on-site effluent

disposal. The above land uses and on-site effluent disposal on relatively small rural residential lots have the potential for nutrient export to the CCW and diversion drain.

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

The site is predominately cleared of vegetation. An unmade portion of Mininup Road reserve along the western side of the subject site contains vegetation, including mature Tuart (*Eucalyptus gomphocephala*) and Peppermint (*Agonis flexuosa*) trees likely to provide suitable habitat for significant fauna, specifically species of black cockatoos and Western Ringtail Possums.

The EPA notes bushfire access for emergency vehicles and egress for future residents may require the provision of a sealed access road in two directions from the subject site. Construction of the road in the current road reserve will impact habitat of significant fauna including loss of canopy connectivity and potential future breeding sites. The EPA advises that realignment of the road to the west would enable the habitat to be retained and also provide a buffer area between the road and CCW.

### **Recommendations**

The EPA concludes that implementation of the scheme amendment can be managed to meet the EPA's environmental objectives through the preparation of local planning scheme provisions to manage and protect the identified environmental factors of Inland Waters, Flora and Vegetation, and Terrestrial Fauna.

The EPA recommends:

- the keeping of stock and intensive agriculture are not prohibited land uses within the amendment area;
- determination of appropriate buffer to the CCW based on a site-specific study or, alternately a 50 metre buffer should be provided;
- on-site sewage disposal systems are located at least 100 metres from the edge of the CCW and Five Mile Brook diversion drain; and
- the construction of sealed access roads is undertaken in a manner to limit the need to clear trees within the Mininup Road reserve.