



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS – EPA REPORT 1738 GREAT SOUTHERN LANDFILL AT ALLAWUNA FARM, GREAT SOUTHERN HIGHWAY, ST. RONANS

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 100(1)(d) of the *Environmental Protection Act 1986* in objection to the above EPA report and recommendations. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Committee's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellants:	82 appellants (see Appendix 1)
Proponent:	Alkina Holdings Pty Ltd
Proposal description:	Great Southern Landfill at Allawuna Farm, Great Southern Highway, St. Ronans
Minister's Decision:	The Minister allowed the appeals in part.
Date of Decision:	14 October 2024

REASONS FOR MINISTER'S DECISION

The Minister received 82 appeals objecting to the Environmental Protection Authority (EPA) report on a proposed landfill and associated infrastructure at Allawuna Farm. Alkina Holdings Pty Ltd (the proponent) proposes to construct and operate the landfill for receiving Class II or III solid waste of up to 250,000 tonnes per annum (tpa). The landfill is located approximately 80 kilometres east of Perth in the Shire of York.

The appeals raised a number of issues, notably:

- Groundwater contamination and risk to water quality in Mundaring Weir;
- Surface water contamination from contaminated groundwater and run-off from the site;
- Feral animal activity – pigs;
- Terrestrial Fauna and adequacy of the offset;
- Fire risk;
- Flora and vegetation;

- Principle of waste minimisation;
- Greenhouse Gas Emissions;
- Aboriginal heritage;
- Biosecurity risk;
- Rehabilitation;
- Other social surroundings impacts;
- Non-environmental matters;
- Errors; and
- Holistic assessment.

Decision

Having considered the information available, including the EPA's response to the appeals and the Appeals Committee's report and recommendation, the Minister was satisfied that the EPA assessment and conclusion that the proposal may be implemented subject to conditions was reasonable, although the Minister agreed with the Appeals Committee that certain conditions should be strengthened to provide additional protections.

The Minister, therefore, allowed the appeals in part.

The Minister noted the determination of the appeals is not the final decision-making process for this proposal under the *Environmental Protection Act 1986* (EP Act). The Minister also noted that the appeals raised a number of matters that, in its report, the Appeals Committee considered were beyond the scope of the EPA assessment, but which may be relevant to the consultation and consideration under s45 of the EP Act. The Minister agreed with this observation of the appeals committee. The final decision-making process will have regard to the EPA's report and broader policy considerations relevant to the proposal.

The Minister's reasons are set out below.

Groundwater contamination and risk to water quality in Mundaring Weir

The Minister noted the appellants submission that the EPA should not have formed the view that contamination of surface water and groundwater could be managed and were particularly concerned that there was a risk to water quality in Mundaring Weir. Appellants contended that there are either unmapped paleochannels that connect the proposal site to the Mundaring catchment or that there are geological faults that provide this connection.

The Minister noted the advice from the EPA that the proponent's hydrogeological and hydrological study components were subject to an independent review, which found that it was unlikely that paleochannels or similar features along potential hydraulic pathways to Mundaring Weir were present and that it was likely that there is a geological barrier that prevents groundwater flow to the west to the Mundaring catchment.

The Minister agreed with the Appeals Committee that the information and arguments in support of the appeals were insufficient to contradict the data from the independent peer review of the proponent's hydrogeological model.

The Minister, therefore, dismissed this ground of appeal.

Surface water contamination from contaminated groundwater and run-off from the site

The Minister noted appellants concerns that poor design and operations, seismic activity and flooding of the site could present risk associated with leakage of waste and leachate from the site in the medium to long term, and contamination of 13 Mile Brook. .

The Minister noted the advice of the EPA that the design and operational management plans for the proposed landfill were considered suitable for containment of waste and leachate at the proposal location and were consistent with current industry practice and standards, including the consideration of possible seismic events. The Minister agreed with the EPA that appropriate conditions could be set by the Department of Water and Environmental Regulation (DWER) through a works approval and licence under Part V of the EP Act and that a condition through Part IV of EP Act was not required.

The Minister also noted the advice of the Appeals Committee that in the unlikely event of a leak, adequate monitoring would be required through an approval under Part V of the EP Act to ensure any leak is detected and managed so that there will not be adverse impacts on any surface water resource.

The Minister, therefore, dismissed this ground of appeal.

Feral animal activity - pigs

The Minister understood that appellants argued that the EPA did not adequately assess the impacts of increased feral animal activity, and contended that the landfill would attract feral animals, notably pigs, which would lead to an increase in the feral pig population that would further damage the Wandoo National Park, 13 Mile Brook and nearby properties.

The Minister noted that the EPA's approach to addressing this matter was to require conditions B1 and C4 be applied, which were aimed at achieving an outcome of "no increase in feral animal numbers within the feral animal control area outside of the Development Envelope". The feral animal control area includes the 13 Mile Brook and surrounding land.

The Minister agreed with the Appeals Committee that such an approach was likely to achieve the desired outcome, but that there was merit in setting an outcome that would achieve a net benefit, especially taking into account that the proponent committed to carrying out restoration works along 13 Mile Brook, and concerns of adjacent landowners about possible increased feral pig activity on their property.

The Minister, therefore, upheld this ground of appeal to the extent that conditions B1.1 and C4 be modified generally as follows:

- B1.1 (3) an ongoing reduction in feral animal numbers within the feral animal control area outside of the Development Envelope ...; and
- A new C4-3 - The environmental management plans and relevant information required under condition B1-2 and condition B2-3 must be submitted prior to operation of the landfill.

Terrestrial Fauna and adequacy of the offset

The Minister understood that appellants argued that the impact on native fauna was significant especially on conservation significant black cockatoos, and that the loss of black cockatoo habitat was either insufficiently offset or cannot be adequately offset. As well, it was argued that the habitat that would be lost is also habitat for Baudin's black cockatoo which the EPA found was not the case.

On the matter of the adequacy of the offset for the loss of 318 tree as determined by the offsets calculator (i.e. restoration of 495 trees of the same or similar species acting as foraging habitat for black cockatoos), the Minister noted the advice from an appellant who is an adjacent land owner carrying out significant restoration on his property, that the survival rates of tree seedlings on his property was well below 100%. The Minister agreed with the Appeals Committee that based on this advice, that planting 1,000 trees as the offset would more likely lead to a survival outcome at least as calculated by the offsets calculator.

The Minister also noted that 13 of the trees to be cleared have hollows that were, at this time, unsuitable for breeding, but could, if not removed, develop into suitable habitats for black cockatoos. The Minister agreed with the Appeals Committee that an additional offset should be a requirement be that the proponent install at least 13 artificial nesting hollows.

The Minister noted that in response to the appeals the EPA acknowledged that the Baudin's black cockatoo was known to forage on marri and wandoo, which are the tree species that would be lost were this proposal proceed. It therefore recommended changes to conditions A1-1, B4-1(1) and B4-2(3) and Table 2 of Appendix A.

The Minister agreed with these changes.

The Minister, therefore, upheld this ground of appeal to the extent that:

- Conditions A1-1, B4-1(1) and B4-2(3) and Table 2 of Appendix A be modified as advised by the EPA;
- Condition B4-1 (1) to have the following words added " ... and future nesting hollows";
- Condition B4-2 (3) to have the following words added "... as well as future nesting hollows"; and
- Table 1, to have the following words added to the for the column "... as well as 13 artificial nesting hollows."

Fire risk

The Minister noted the appellants concern that the landfill would increase the number of wildfires in the Wandoo National Park in particular, and that the local firefighting volunteers are ill-equipped to deal with landfill fires.

The EPA advised that it consulted with the Department of Biodiversity, Conservation and Attractions (DBCA), DWER and Department of Fire and Emergency Services (DFES) specifically on the risk that the landfill would lead to an increase in the number of wildfires in the Wandoo National Park. The EPA was advised that neither agency concluded that the proposal posed an unacceptable risk to the Wandoo National Park or surrounding properties.

The Minister agreed with the EPA that DWER can set conditions on the works approval to address the fire risk, and also agreed with the Appeals Committee that the information provided by the appellants and the arguments in support of the appeals did not represent a case that can contradict the assessment of the EPA.

With respect to the health risk that any landfill fire would pose to local bushfire volunteers, and whether the local volunteer firefighters would need to respond to a landfill fire, the Minister agreed with the Appeals Committee that this was a broader planning and management matter for DFES to consider, and was beyond the scope of an EPA assessment. The Minister noted that this matter was discussed in the Other Matters section of the Appeals Committee report.

The Minister, therefore, dismissed this ground of appeal.

Flora and vegetation

The Minister understood that the concerns of appellants were around the uncertainty of the identity of the two individuals which maybe *Hemigenia platyphylla* and indirect adverse impacts the operation of the landfill could have on flora and vegetation, notable from fire, contamination and feral animals.

The Minister addressed the second concern in other appeals grounds.

On the matter of the uncertainty of the identity of the two individuals of *Hemigenia platyphylla*, the Minister agreed that condition B5 adequately addresses this uncertainty.

The Minister, therefore, dismissed this ground of appeal.

Principle of waste minimisation

The Minister noted that appeals came from both third-party appellants and the proponent. Third party appellants argued that the proposal did not align with the Draft Western Australia State Waste Infrastructure Plan, in particular, that new landfill sites were not required to manage waste up to 2050. The Minister noted that the Draft Western Australia State Waste Infrastructure Plan had been finalised (Western Australia State Waste Infrastructure Plan, May 2024).

The Minister agreed with the Appeals Committee that the purpose of an EPA assessment report was to assess a proposal on its merits within the constraints of the EP Act. Consistently with the observations in the Appeals Committee's report, the Minister considered that the strategic matters raised in the appeals were matters for other decision-making processes, including that under section 45 of the EP Act.

The Minister, therefore, dismissed this ground of appeal from third party appellants.

With respect to the appeal from the proponent, the Minister agreed that as written, condition B6 did provide some uncertainty. The Minister noted that in the recent EPA assessment of a proposed landfill in Dardanup (Banksia Road Landfill), the equivalent of condition B6 was worded slightly differently which did not provide the same level of uncertainty.

The Minister, therefore, allowed this ground of appeal from the proponent and that condition B6 should be:

- B1-6 The proponent must implement the proposal to meet the following environmental objectives:
 - (1) the proposal's acceptance of waste volumes, types of waste and disposal methods:
 - (a) are consistent with the principles of waste minimisation and the waste hierarchy;

- (b) align with Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 (as amended or replaced);
- (c) are consistent with diversion of relevant waste streams away from landfill where practicable;
- (d) are consistent with waste being accepted from producers and/or suppliers who operate in accordance with a waste minimisation policy consistent with the Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 (as amended or replaced) and recognised state and national product stewardship schemes; and
- (e) are reviewed every five (5) years and continuous improvements are implemented to ensure consistency with the above are included.

Greenhouse Gas Emissions

The Minister noted that appeals on this ground came from both third-party appellants and the proponent. The Minister understood that third party appeals sought to have further reductions in the greenhouse gas (GHG) emissions from the land fill and challenged the validity of the GHG emissions. The appeal from the proponent related to the difference between the EPA proposed outcome and objective.

The Minister noted that a peer review of the proponent's calculation of annual GHG emissions found that if the proponent's capture rate of 75% was achieved this would mean that annual GHG emissions would be less than the threshold where the EPA's Environmental Factor Guideline – Greenhouse Gas Emissions - would apply, that was more than 100,000 t CO₂-e per year.

The Minister agreed with the Appeals Committee that the EPA recommended condition B2 GHG emissions would ensure appropriate management and monitoring was in place to ensure the proponent's capture rate of 75% was achieved and GHG emissions was no more than 100,000 t CO₂-e per year. This outcome was consistent with EPA policy, and the Minister found that further reductions in emissions was not required.

With respect to the request to have controls placed on GHG emissions for closure at this time, the Minister agreed with the Appeals Committee that it was more appropriate to set conditions regarding GHG emissions for closure consistent with the policy settings at the time of closure.

With respect to the contention that scope 3 emissions would be 14,250,000 tonnes per year, the Minister noted the calculations carried out by the Appeals Committee based on the same data as used by the appellant which came to 1,491.2 tonnes of CO₂ per year. This latter figure was in line with the estimate of the proponent. For this reason, the Minister found that the calculation by the appellant was in error.

The Minister, therefore, dismissed this ground of appeal by third parties.

With respect to the appeal by the proponent, the Minister agreed that having a binding GHG emissions objective and outcome that were different numerically could seem contradictory (i.e. 95% and 75%) and that the 95% should be seen as a long-term objective and the 75% outcome can remain.

The Minister, therefore, allowed this ground of appeal consistent with the above and that conditions B2-2 and B2-3 be re-worded as below:

B2-2 The proponent must implement the proposal to meet the following long term environmental objective:

(1) a capture rate of CO₂-e from landfill of 95 per cent.

B2-3 The proponent must prepare an environmental management plan to satisfy the requirements of conditions C4 and C5 and that demonstrates how achievement of the greenhouse gas emissions environmental outcome in condition B2-1 will be monitored and substantiated, and on progresses towards the long term greenhouse gas emissions environmental objective in condition B2-2, and submit it to the CEO.

Aboriginal heritage

The Minister noted that appeals on this ground were submitted by Traditional Owners and non-Traditional Owners. The Minister understood that the non-Traditional Owners raised two broad concerns. The first related to the suitability of the three Elders of the Local Aboriginal Community who were consulted in 2012 to properly represent the Traditional Owners and to describe the social, cultural and spiritual values of the area. The second concern was that the EPA did not properly assess this factor. Traditional Owners also raised the first concern.

The Minister understood that appeals from Traditional Owners related to a birthing site on 13 Mile Brook within the property boundary, and that the waterways were inhabited and protected by the Waagle, which are sacred places that give and sustain life. Concerns were firstly that whilst the water ways and the birthing site may be protected from direct impacts, the quality of waters in these waterways are threatened by leakages from the landfill. The second concern is broader in that the cultural and spiritual connection that Noongar people have to this area extends beyond the specific bio-physical sites and waterways, and the landfill site will adversely affect this connection.

The Minister noted that the EPA responded to concerns about protecting the birthing site and the Waagle by recommending an additional condition. The Minister noted that this condition also addresses concerns about adequate engagement with Traditional Owners.

The Minister, therefore, allowed this ground of appeal to the extent that the recommended new condition by the EPA be included, and that Table 2 be amended accordingly:

B7 Aboriginal Heritage

B7-1 The proponent must implement the proposal to meet the following environmental outcome:

(1) no disturbance to Aboriginal cultural heritage sites in the development envelope, unless consent is granted to disturb that site under WA legislation which specifically relates to Aboriginal heritage and has required informed consultation with relevant Traditional Owners.

B7-2 The proponent must undertake ongoing consultation and engagement with relevant Traditional Owners about the achievement of the outcome in condition B7-1 and objectives in condition B6-1 and condition B6-2 for the life of the proposal.

The Minister noted the advice of the Appeals Committee that the birthing site had special sensitivities and was a women's only site and that the proponent plans to rehabilitate 13 Mile Brook which contains that site.

The Minister, therefore, allowed this ground of appeal to the extent that a new condition be included to address this sensitivity as follows:

- B7-3 The proponent must undertake the rehabilitation of 13 Mile Brook in a manner that recognises and is consistent with the cultural sensitivity of the site on advice of, and in collaboration with, the Barladong Noongars Elders.

On the matter of potential adverse impacts on the cultural and spiritual values of the birthing site and the waterways that carry the Waagle that extend beyond the physical location of these sites to the broader landscape, the Minister was aware that the EPA was constrained by the scope of social surroundings as defined in the EP Act and further clarified in its relevant Guideline. In this case, the physical or biological surroundings was the birthing site and the water ways, and there was a clear cultural connection to these elements of these sites.

The Minister agreed with the Appeals Committee that the matter of potential adverse impacts on the cultural and spiritual values of the birthing site and the waterways that carry the Waagle that extend beyond the physical location of these sites to the broader landscape was a matter beyond the scope of social surroundings as set out in the EPA Guidance (i.e. the guidance refers specially to “physical or biological surroundings” and not the cultural and spiritual values that extend beyond the physical or biological surrounding.) The Minister noted this matter was discussed in the Other Matters section of the Appeals Committee report.

The Minister, therefore, dismissed this part of this ground of appeal.

Biosecurity risk

The Minister understood that biosecurity risk is of particular concern for neighbouring landowners and is about potential adverse impacts on agricultural activities.

The Minister noted the advice of the EPA that the Department of Primary Industries and Regional Development (DPIRD) provided advice that landfills do not pose an unacceptable biosecurity risk to agriculture, but that additional measures should be required to manage biosecurity risks such as noxious weeds, feral animals and European house borer. The Minister noted that the proponent updated the management plan to address DPIRD's requirements.

The Minister, therefore, dismissed this ground of appeal.

Rehabilitation

The Minister understood that the main concern of appellants was that insufficient information was provided on post-closure rehabilitation and the EPA failed to fully assess its effectiveness.

The Minister noted the advice of the EPA that closure of the site could be regulated under Part V of the EP Act by DWER through a closure management plan to ensure the site was rehabilitated in a manner that was consistent with the EPA environmental factor objectives. The Minister also noted that the landfill is likely to be registered as a contaminated site whereby remediation would be regulated in accordance with the *Contaminated Sites Act 2003*.

The Minister, therefore, agreed that closure could be regulated under Part V of the EP Act by DWER and there was no need for the EPA to carry out a full assessment of this matter. The Minister also agreed that it was not necessary to set any conditions related to closure.

The Minister, therefore, dismissed this ground of appeal.

Other social surroundings impacts

The Minister understood that appellants raised concerns regarding adverse impacts from odours, dust, noxious gases and road safety due to increased road traffic.

Whilst the Minister recognised that landfill sites could cause offsite impacts, particularly from odours, the Minister noted that the separation distance between the landfill and nearest residence meets EPA requirements for odours, and that approvals under Part V of the EP Act could include conditions that manage odours, dust, landfill gas emissions, fire and windblown waste. The Minister also noted that the EPA required the proponent to update its dust and odour management plans.

With respect to increased truck traffic and road safety, the Minister noted that the EPA could consider potential environmental impacts of increased traffic such as noise and reduced air quality, but that road safety was not an environmental issue. The Minister noted that this matter was discussed in the Other Matters section of the Appeals Committee report.

The Minister, therefore, dismissed this ground of appeal.

Non-environmental matters

The Minister understood that the key non-environmental matter raised by appellants not covered in other appeals grounds was Tourism and the character of York, and that appellants contended that a landfill site was seen as being inconsistent with the character of York.

The Minister agreed with the Appeals Committee that this was not an environmental matter and that it was discussed in the Other Matters section of the Appeals Committee report.

The Minister, therefore, dismissed this ground of appeal.

Errors

The Minister noted that appellants, the EPA and the Appeals Committee found some errors in the EPA report, which are set out in the Appeals Committee report. The Minister agreed with the Appeals Committee that these errors were minor in nature and do not alter the overall assessment and conclusions of the EPA in its report.

The Minister, therefore, allowed this ground of appeal to the extent that appropriate changes be made as part of any final approval as set out in the Appeals Committee report.

Holistic assessment

The Minister noted that the EPA's holistic assessment focuses on the key environmental factors and re-examines the direct impacts of each factor to identify if any adverse impacts on that first factor would have additional impacts on a related factor not identified when the impacts on that related factor was assessed separately.

The Minister understood that appellants took a broader view and argued that a holistic assessment should take into account all adverse impacts and not just impacts on key environmental factors. If this was done, it was contended that the proposal should have been found to be unacceptable.

The Minister agreed with the Appeals Committee that appellants, in taking a broader view of holistic assessment, did not address the specifics of the EPA holistic assessment, and it was within this context that the Minister must determine the appeals.

The Minister, therefore, dismissed this ground of appeal.

Other matters

The Minister noted that the Appeals Committee report presented appellants views on a range of matters not relevant to the EPA assessment of environmental factors. The Appeals Committee advised that these were matters that may be relevant to broader and other decision-making and may be relevant for the Minister as part of his consultations and considerations under s45 of the EP Act.

This advice from the Appeals Committee was noted. The final decision-making process will have regard to the EPA's report and broader policy considerations relevant to the proposal.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

Office of the Appeals Convenor

Level 18, 197 St Georges Terrace

Perth WA 6000

Tel: (08) 6364 7990

www.appealsconvenor.wa.gov.au

Appendix 1 Appellants

Mr Stephen Malone	Mr Brandon Slater
Mrs Kathy Boladeras	Mrs Laura Lee [nee Bateman]
Mr Alec MacGill	Mr Travis Narkle
Mr Stan Scott	Mr Damien Metcalf
Mrs Laurel Scott	Ms Marjorie Kerkhoff
Mrs Danielle Courtin	Ms Kara Kickett-Henderson
Mr Bobby Hall	Ms Sarina Narkle
Ms Clarie Truman	Mrs Audrey Nettle
Mrs Linda Ford	Ms Pearle Kickett
Mrs Christine Spence	Mr Bradley Davies
Dolly Sabrina Boris Guzman	Ms Karen Thomas
Eastern Metropolitan Regional Council (EMRC)	Alkina Holdings Pty Ltd (proponent)
Mr Keith CJ Schekkerman	Ms Helen Green
Ms Denese Smythe	Mundaring Residents and Ratepayers Progress Assn
Ms Janice Schekkerman	Ms Liz (J. Elisabeth) Christmas
Ms Susan Norris	Avon Valley Residents Association Inc
Dr Marion Kickett and Ms Tracey Kickett	Mrs Beverley Hill
Mrs Carol Littlefair	Mr Paul Manning
Mrs Meryl Widenbar	Mrs Cassandra Manning
University of Western Australia Archaeology	Mr Gary Slater
Save Perth Hills Inc	Mrs Deanne Slater
Mr Kevin Trent	Mrs Roma Paton
Mr Anthony Roupael	River Conservation Society Inc.
Ms Jenny Garroun	Ms Jane Ferro
Mr Delik Slater	Ballardong Aboriginal Corporation
Ms Simone Garlett	Perth Hills Climate Change Interest Group Inc.
Mr Lucas Narkle	Ms Jeni McColl and Mr Ian McColl
Miss Rana Barutcu	Mr Peter Wyatt
Mr Cameron Shane Slater	Dean & Anne Harffey
Mr Joseph Slater	Hon Chris Pullin KC
Ms Breeanna Slater	Bilya Goguylar Boodja Aboriginal Corporation
Ms Wendy Dickerson	Conservation Council of WA

Mr Dave Freeman

Mr Darren Thomas

Ms Rebecca Sario

The York Society

Mrs Judy Binning

Shire of York (McLeods)

Mr Jake Davies

Mrs Kay Davies and Mr Glenn Davies

Ms Lynley Bashford and Mr Chris
Meadmore

Ms Raylene Keremeta

Mr Greg Manzie

Mrs Katherine Davies

Mr Kevin Binning

Ms Julie Paull

Mr Michael Moppett

Mr Alan W Cook

Lisa and Steve Moore

Michael Moore