



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF LICENCE L8974/2016/1 ABERCROMBIE ROAD RESOURCE RECOVERY CENTRE, ABERCROMBIE ROAD, POSTANS

Purpose of this document

This document sets out the Minister's decision on appeal lodged under section 102(3)(a) of the *Environmental Protection Act 1986* in objection to the conditions of a licence under Part V of the Act. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	Eclipse Soils Pty Ltd
Licence Holder:	Eclipse Soils Pty Ltd
Proposal description:	The Abercrombie Road Resource Recovery Centre licence authorises operation of a prescribed premises category 61A (solid waste) and category 67A (compost manufacturing and soil blending) facility
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	21 May 2018

REASONS FOR MINISTER'S DECISION

This decision relates to the conditions applied to a licence issued by the former Department of Environment Regulation (DER) for a solid waste and composting facility at the above location. Effective 1 July 2017, DER's functions were assumed by the Department of Water and Environmental Regulation (DWER).

The Minister received reports on the matters raised in the appeal from DWER and from the Appeals Convenor.

The appellant was provided with a copy of DWER's response to the appeal, and made further submissions on that response to the Appeals Convenor. DWER agreed with a number of the appeal grounds, which are set out in the Appeals Convenor's report.

Of the remaining issues, the key contentions between the appellant and DWER relate to the delineation of green waste and acid sulphate soil (ASS)/potential ASS (PASS) processing and storage areas; quarterly groundwater monitoring; requirement for a defined carbon to nitrogen ratio for green waste stockpiles; and removal of waste from clean fill storage area.

In relation to the delineation of green waste and ASS/PASS areas within the licence, and the requirement for quarterly groundwater monitoring, the Minister agreed with the Appeals Convenor that these requirements should remain. While the Minister noted the submission that these areas may change over time and that annual monitoring of groundwater has not raised any concern that leachate from the premises is entering the groundwater, for the following reasons he accepted DWER's position that further work is required before these requirements are changed.

In relation to risks to groundwater from leachate, the conditions included requirements to investigate containment infrastructure such as the permeability of limestone pads against stated criteria, and to improve that infrastructure where the criteria are not met. In addition, the licence included requirements for quarterly groundwater monitoring.

In its response to the appeal, DWER stated that given the inconclusive nature of available groundwater monitoring results, it is reasonable to allow a period of 12 months increased (quarterly) groundwater monitoring to verify whether the high-risk rating for leachate emissions is accurate. Quarterly monitoring is considered necessary to understand any seasonal fluctuations in groundwater levels and chemistry which may be attributable to natural processes. In these circumstances, DWER recommended that the requirements to give effect to improvements to containment infrastructure could be deferred pending the results of the monitoring.

The Minister accepted DWER's advice that if additional groundwater monitoring demonstrates that the existing limestone pads used for green waste and ASS/PASS are of a sufficient permeability to mitigate impacts to groundwater, improvement requirements IC1 and IC2 may no longer be required to be met within the stipulated timeframes. The Minister therefore allowed the appeal to the extent that this outcome should be reflected in revised wording to IC1 and IC2.

In relation to groundwater monitoring, the Minister considered it appropriate for quarterly monitoring to be required for at least the first 12 months following this decision, for the reasons stated by DWER. Should those results confirm the original risk assessment, it is open to DWER to remove improvement requirements IC1 and IC2 and review the requirement to maintain quarterly monitoring.

The licence currently requires the appellant to maintain a carbon to nitrogen ratio of between 25:1 to 35:1 for green waste storage and processing. The appellant objected to this specification on the basis that it would require excess nitrogen to be added to the composting process at additional cost, and no environmental benefit.

DWER clarified that the condition was not intended to require green waste to meet that ratio, but that it should apply to inputs to the composting process. In response to DWER's revised position, the appellant submitted that due to the nature of the feedstock employed at the site (being 'chunky wood'), the carbon to nitrogen ratio would be higher than that specified in the licence, so the limitation should be removed.

Taking into account the information available in relation to this issue, the Minister determined to allow the appeal in accordance with DWER's advice, with the additional clarification that the upper limit set for the carbon to nitrogen ratio should be increased to reflect the types of feedstock used at the premises. The details of this figure will be determined by DWER in

giving effect to this decision under section 110 of the *Environmental Protection Act 1986* (the Act), in consultation with the appellant, and having regard to the guidance published in New South Wales referenced in the Appeals Convenor's report.

In relation to the clean waste storage area, DWER considered that there is little to no risk posed to groundwater from the storage of clean fill and therefore controls are not required specifying where clean fill is stored and processed. As a result, it recommended that the licence conditions relating to the clean fill storage area are deleted to allow for the storage of this material anywhere on the premises. It also advised that waste and materials other than clean fill should not be authorised to be stored at this location until such time that Eclipse Soils provides evidence regarding the suitability of the hardstand in this area to mitigate risks to groundwater from leachate emissions from other activities.

The Minister supported DWER's position, and dismissed this ground of appeal accordingly. Consistent with his conclusions in respect to green waste and ASS/PASS storage and processing areas, should it be established that activities at the premises do not pose risks to groundwater, it would be open to DWER (whether on the instigation of Eclipse Soils or of its own motion) to amend the licence at that time, having regard to the nature of the materials and the specifications of the containment infrastructure.

The Minister also agreed with DWER's advice that condition 1.2.11 (relating to separation between clean fill stockpiles etc) should be deleted as it is no longer relevant, but that condition 1.2.8 (relating to the height of stockpiles outside of the clean fill storage area) should be amended to refer to all stockpiles, wherever they occur on the premises.

The Minister noted that recent amendments of the *Landfill Waste Classification and Waste Definitions 1996* have changed the definition for clean fill and introduced a new type of waste called 'uncontaminated fill'. While these definitions are in the context of premises that accept waste for burial (which is not applicable to the current premises), the Minister requested DWER to ensure any terms used in the licence that require updating as a result of changes to the definitions are considered in parallel with the appeal decision.

There are a number of other matters raised in the appeal that DWER has recommended be dismissed, including in relation to asbestos and recording of materials leaving the premises. The Minister considered these issues and determined all remaining grounds of appeal in accordance with the advice of DWER and the Appeals Convenor.

The Minister requested DWER to give effect to this decision under section 110 of the Act as soon as practicable.

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*.

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