



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS OF THE ENVIRONMENTAL PROTECTION AUTHORITY REPORT 1618: ALBEMARLE KEMERTON PLANT

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 100(1)(d) the *Environmental Protection Act 1986* in objection to the report and recommendations of the Environment Protection Authority in respect of the above proposal. 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.

Appellants:	Mr Geoff Tohill; and South West Forests Defence Foundation Inc.
Proponent:	Albemarle Lithium Pty Ltd
Proposal description:	Lithium hydroxide product manufacturing plant and associated infrastructure.
Minister's Decision:	The Minister allowed the appeals in part.
Date of Decision:	27 September 2018

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Environmental Protection Authority (EPA) on the matters raised in the appeals. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeals.

In summary, the appeals raised a number of objections to the EPA's assessment and recommended conditions, including impacts to flora and vegetation, terrestrial fauna, waste management, surface waters and groundwater, air quality and offsets.

In relation to flora and vegetation, an appellant submitted that the EPA did not consider all the potential direct and indirect impacts. The EPA advised that 54.31 hectares (ha) of native vegetation, including 6.37 ha of vegetation associated with the 'Low lying *Banksia attenuata* woodlands or shrublands' Priority Ecological Community (PEC), would be directly impacted by

the proposal. The EPA also identified the potential for indirect impacts to flora and vegetation, including alteration of hydrological processes and the introduction and spread of weeds and dieback.

The EPA considered the impacts on flora and vegetation were manageable and would not be significant, provided there is a limit on the clearing of native vegetation, the proponent prepares and implements a Flora and Vegetation Monitoring and Management Plan, a Water Management Plan, and an Offset Strategy to counterbalance the significant residual impact of the clearing of 6.37 ha of the PEC in 'Good' or 'Excellent' condition.

Taking the EPA's advice into account that no direct or indirect impacts to threatened flora and communities are anticipated outside of the development envelope, and to provide further clarity that this outcome will be achieved, the Minister allowed this ground of appeal to the extent that consistent with the advice of the EPA, Table 2 of Schedule 1 and Figure 1 of the recommended environmental conditions be amended to clarify the extent of clearing of flora and vegetation.

As to the appellant's concern regarding fauna, the Minister understood that the EPA's assessment found that 45.73 ha of potential black cockatoo foraging habitat, including 14.45 ha of potential breeding habitat, would be impacted through direct clearing. In relation to management of direct and indirect impacts, the Minister understood that there was a limit on clearing and that management plans are required (as discussed above) relating to flora and vegetation communities. In this regard the EPA identified that there would be a significant residual impact and recommended that an offset be applied.

The Minister agreed with the EPA that the offset condition should be amended to specify how the 45.73 ha relates to both foraging and potential breeding habitat. Therefore in order to clarify the residual impact to fauna, the Minister allowed this ground of appeal to the extent that Condition 10-1 is amended to specify the residual impacts as they relate to both foraging and breeding habitat for black cockatoos. Furthermore, the Department of Biodiversity, Conservation and Attractions will be providing advice to ensure the offset strategy meets the intent of the recommended offset conditions.

While the Minister acknowledged the appellant's broader concerns about the EPA's consideration of offsets, the Minister was satisfied that the EPA properly identified the potential significant residual impacts from the proposal and applied an offset in accordance with established policy and guidelines. Therefore the Minister dismissed this ground of appeal.

An appellant also raised concerns regarding waste management, specifically generation and management of tailings. The Minister understood that the proponent is required to prepare and implement a Waste Management Plan, which includes taking all reasonable and practicable measures to minimise waste and its discharge into the environment. The Minister also noted that the Waste Management Plan can be reviewed and updated. On this basis, the Minister considered the concerns have been addressed and dismissed this ground of appeal.

Regarding concerns on the potential for surface and groundwater contamination from the proposal, the Minister noted the EPA advice that the proposal does not include tailings disposal or any process discharges to ground or surface water systems. As noted above, the proponent is required to prepare and implement a Water Management Plan and the Minister also understood that chemical storage and stormwater will be further assessed under Part V of the Act. Therefore the Minister dismissed this ground of appeal.

An appellant considered that the EPA's assessment in relation to air emissions was narrow and the conditions should be strengthened. In response, the EPA recommended that

Condition 9 be broadened to include a Greenhouse Gas Management Plan, requiring adoption of best available technologies and consideration of energy efficiency in the proposal design. The Minister agreed with this approach and the inclusion of provisions to allow the plan to be reviewed and updated. Therefore the Minister allowed this ground of appeal to the extent that Condition 9 is amended as detailed in the Appeals Convenor's report.

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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