



Appeals Convenor
Environmental Protection Act 1986

**REPORT TO THE
MINISTER FOR ENVIRONMENT**

**APPEAL IN OBJECTION TO THE CONTENT OF, AND RECOMMENDATIONS IN,
AN ENVIRONMENTAL PROTECTION AUTHORITY REPORT AND
RECOMMENDATIONS**

**EPA REPORT 1634: YANCHEP RAIL EXTENSION
PART 1 – BUTLER TO EGLINTON**

PROPONENT: PUBLIC TRANSPORT AUTHORITY

Appeal Number 027 of 2019

June 2019

Appeal Summary

This report relates to an appeal lodged in objection to the report and recommendations of the Environmental Protection Authority (EPA) Report 1634 for the Yanchep Rail Extension Part 1 – Butler to Eglinton proposal by the Public Transport Authority.

In summary, the appellant's concerns relate to:

- fauna linkage impacts associated with the Alkimos Parks and Recreation Reserve (PRR) crossing; and
- the development of appropriate management actions in an Environmental Management Plan (EMP) to be submitted to, and approved by, the CEO at a later date.

In responding to the appeal and as detailed in Report 1634, the EPA remained of the view that there would not be a significant residual impact to terrestrial fauna movement from the proposal. This finding included consideration of the proposed management and mitigation measures including construction of a fauna underpass at the Alkimos PRR crossing. The EPA did however consider that there was merit in allowing the appellant to provide suggestions and input during development of the EMP.

Having regard for the information provided during the appeals investigation, including the referral documentation, and information provided by the appellant, the proponent and the EPA, the Appeals Convenor considered that the EPA's report and recommendations were appropriate and supported by the available evidence.

It is considered appropriate for the development of the EMP to occur in consultation with the appellant noting its valuable local environmental knowledge, and it is recommended the Minister convey this expectation to the Minister for Transport accordingly.

It is not considered necessary, on balance, for the conditions to be amended to achieve this outcome, as it is expected that the parties will achieve the same end based on the cooperative working relationship that is understood to exist.

Recommendations

The Appeals Convenor recommended that the appeal should be dismissed.

INTRODUCTION

This report relates to an appeal lodged by the Quinns Rocks Environmental Group (appellant) in objection to the content, and recommendations in, the Environmental Protection Authority (EPA) Report 1634 for the Yanchep Rail Extension Part 1 – Butler to Eglinton proposed by the Public Transport Authority (proponent).

The location and extent of the proposal are shown in Figure 1.

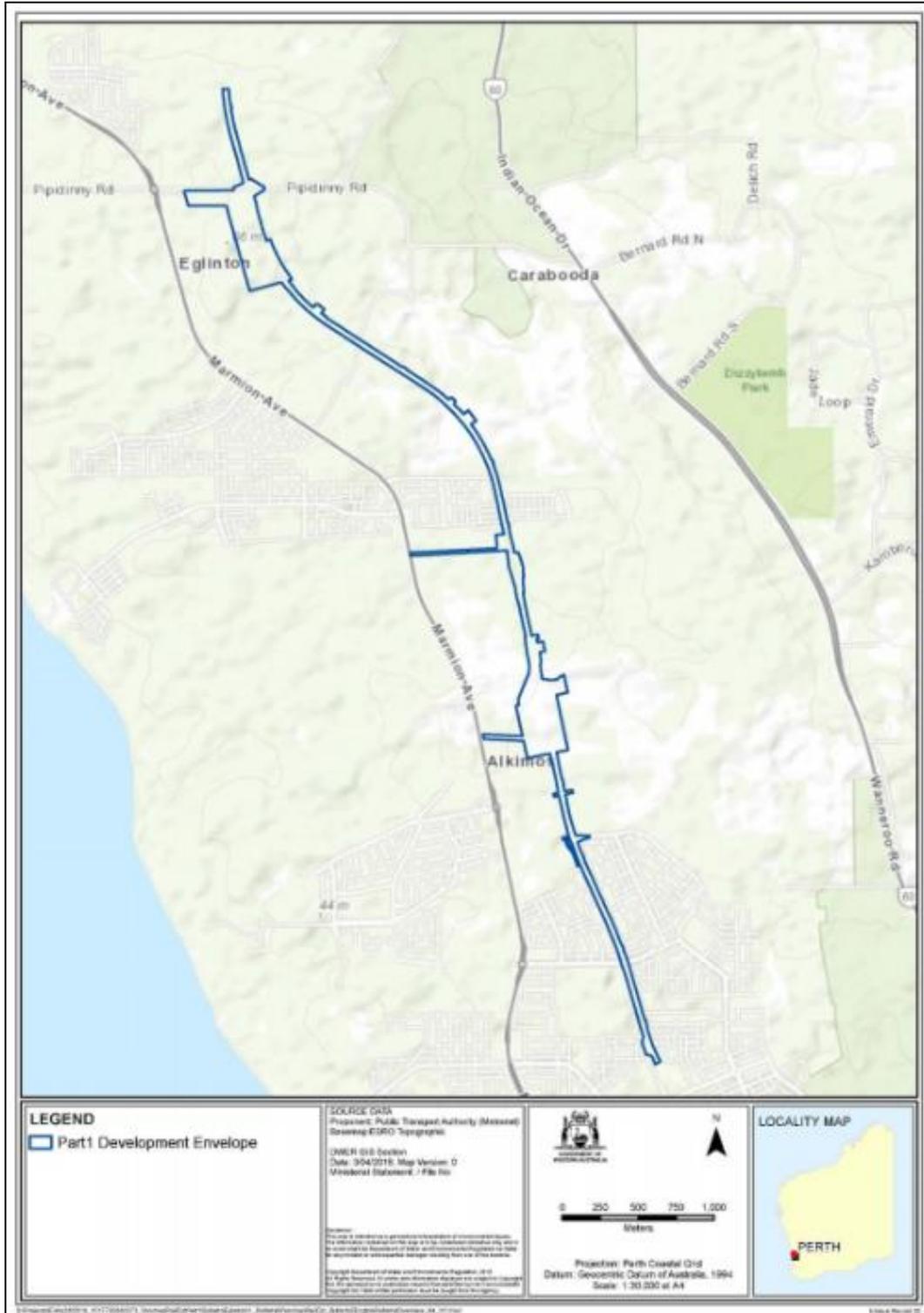


Figure 1 – Location and extent of proposal (Source: EPA, 2019)

The proposal involves the construction and operation of a 7.3 kilometre extension to the existing Joondalup railway line including two new stations at Alkimos and Eglinton.

This document is the Appeals Convenor's formal report to the Minister for Environment under section 109(3) of the *Environmental Protection Act 1986* (EP Act).

OVERVIEW OF APPEAL PROCESS

In accordance with section 106 of the EP Act, a report was obtained from the EPA in relation to the issues raised in the appeal. The proponent was also given the opportunity to address the matters raised in the appeal.

During the appeal investigation the Appeals Convenor consulted the appellant and the proponent in relation to issues raised in the appeal.

The proponent also requested and were provided a copy of the EPA's report obtained in accordance with section 106 of the EP Act.

The environmental appeals process is a merits-based process. For appeals in relation to an EPA report and recommendations, the Appeals Convenor normally considers the environmental merits of the assessment by the EPA, based on objectives as set by the EPA as well as other environmental factors. The appeals process considers environmental significance, relevance of factors, additional information not considered by the EPA, technical errors and attainment of policy objectives. Where the development has been the subject of previous EPA assessments, those assessments and any subsequent Ministerial appeal decisions also need to be taken into account.

OUTCOMES SOUGHT BY APPELLANT

Broadly, the appellant submitted that the EPA's recommended conditions should be amended to allow further consultation and consideration in developing solutions for managing impacts, noting proposal designs had not yet been finalised.

GROUND OF APPEAL

GROUND 1: FAUNA LINKAGE

The appellant submitted that the EPA should not have made a fauna underpass a required design solution for maintaining fauna linkage values through the Alkimos Parks and Recreation Reserve (PRR). It was asserted that the conclusion that an underpass would effectively maintain linkage values was potentially premature given it was the appellant's understanding that proposal designs required excavation at the Alkimos PRR crossing and had not been finalised.

During subsequent consultation, the appellant suggested that further consideration should have been given to the option of installing an overpass whereby the crossing could be excavated and a land bridge constructed over the top. It was suggested that this would likely be more effective for maintaining fauna linkage values whilst also having the added benefit of maintaining greater public access across the Alkimos PRR.

Consideration

The EPA assessed impacts in relation to this ground of appeal under the environmental factor 'Terrestrial Fauna' where the objective is 'to protect terrestrial fauna so that biological diversity and ecological integrity are maintained'.

EPA Report 1634 outlines that the proponent proposed to construct a fauna underpass at the Alkimos PRR crossing in an effort to maintain the east-west ecological linkage. The EPA noted that not all fauna will use underpasses, particularly if they are long, too small or do not provide shelter. As a result, the EPA recommended condition 8 requiring an environmental management plan (EMP) detailing the dimensions, furniture, entry design and drainage provisions for the underpass. The EPA also recommended that the underpass be limited to a maximum length of 50 metres making reference to a study that found quenda did not use long underpasses very often.

In response to the appeal, the EPA advised that the proposed underpass would allow for some dispersal of terrestrial fauna and short-range endemic fauna. In determining the appropriateness of the underpass, the EPA considered the proponent's Environmental Review Document¹ which states:

The only area of fill required is where the alignment traverses the Alkimos 'Parks and Recreation' reservation (Alkimos PRR), where the railway will be constructed on an embankment. The embankment will enable a fauna underpass to be installed.²

Noting this information, the EPA advised that a fauna underpass was considered an appropriate mitigation method to address fragmentation of the Alkimos PRR. The EPA did not consider that there would be a significant residual impact to terrestrial fauna movement given the management and mitigation measures proposed.

The Alkimos PRR crossing is approximately 250 metres long, intersecting two different vegetation types. The southern end (approximately 100 metres long) intersects a parabolic dune of the Alkimos dune system and comprises a *Lomandra* sp. herbland. The remainder intersects *Banksia attenuata/Banksia menziesii* woodlands³. The area where fill is proposed, and where the underpass will be located, is the *Banksia attenuata/Banksia menziesii* woodlands portion. This area is a topographic low point in comparison to the adjacent dune and surrounding area (Figure 2).

¹ ecological (2018). Yanchep Rail Extension: Part 1 – Butler to Eglinton. Environmental Review Document. Prepared for Public Transport Authority.

² Ibid, page 15.

³ RPS (2018). Environmental Impact Assessment – Yanchep Rail Extension, Part 1 – Butler Station to Eglinton Station. Prepared for Public Transport Authority.



Figure 2 – Topographic contours (pink) at the Alkimos PRR (green shading) crossing

In a fauna underpass study commissioned by the proponent, it was identified that underpasses should be sited in locations that link similar habitats and in landscape features such as valleys that may offer more shelter.⁴ The siting of the underpass within a topographic low point is consistent with this recommendation.

In response to the appeal, the proponent advised that a meeting was previously held with the appellant on 25 March 2019. It is advised the meeting included a presentation of concept designs of the Alkimos PRR crossing.

The proponent advises that there are topographic limitations of the crossing requiring a large section of fill to be constructed to meet grade of the railway formation to the north and south and therefore an underpass was determined to be the most appropriate mitigation option. The proponent advises that other options such as a fauna overpass would need to be a large structure to cover the built-up area of fill, railway tracks and overhead line electrical infrastructure.

It is noted that the proposal footprint to the north and south is already highly constrained by approved urban developments limiting the options for the proponent to amend the grade of the railway formation in those areas. It is also noted that constructing an overpass over an area of fill will likely require a greater amount of clearing of native vegetation as well as result in a more exposed landform that may discourage fauna use.

⁴ Bamford Consulting Ecologists (2019). Yanchep Rail Extension Part 2 Fauna Underpass Assessment Statement. Prepared for Public Transport Authority.

Conclusion

Noting the recommendations of the related fauna underpass study, the topography of the area in question, and that the proposal design considered by the EPA was clearly defined as requiring construction of an embankment at the Alkimos PRR crossing, it is considered that installing an underpass would be appropriate mitigation in this circumstance. It is recommended that this ground of appeal be dismissed.

GROUND 2: EMP CONSULTATION

The appellant submitted that the requirement for an EMP as recommended by the EPA should also include a requirement for the EMP to be developed in consultation with the public. The appellant submits that many of the environmental issues previously raised in submissions are to be addressed through the EMP, hence why its formulation should be open to public consultation.

Consideration

This appeal ground relates to condition 8-2 recommended by the EPA which requires the proponent to "...prior to ground-disturbing activities within 50 metres of the Alkimos Parks and Recreation Reserve as delineated in Figure 3, prepare and submit an Environmental Management Plan to the satisfaction of the CEO, on advice of the City of Wanneroo and the Western Australian Planning Commission". Condition 8-3 is also relevant as it lists the items that must be specified/included in the EMP.

In response to this ground of appeal the EPA has advised that, based on the appellant's local environmental knowledge and interest in native fauna issues in the area, there is merit in allowing the appellant to provide suggestions and input during the development of the EMP. The EPA has recommended that this ground of appeal be allowed to the extent that condition 8-3 is amended to require the EMP to include evidence of consultation with the appellant, including a demonstration of how its comments have been incorporated into the EMP, where relevant and practicable.

In response to this appeal ground and the EPA's recommendation that condition 8-3 is amended, the proponent has advised:

- meetings have been held with the appellant on several occasions between 2017 and 2019;
- the proponent has committed to further consultation with the appellant;
- the proponent acknowledges that the appellant has valuable local environmental knowledge and an interest in management of the Alkimos PRR;
- a draft version of the EMP will be provided to the appellant for review and a meeting will be offered to discuss comments and answer questions; and
- evidence of consultation with the appellant on the EMP will be provided to the EPA.

The proponent expressed concern however, that if consultation on the EMP was afforded to the public through conditions, there would be a risk to the construction schedule noting:

- public consultation would include community groups like the appellant which are largely volunteer based with no requirement to respond within a statutory timeframe; and
- condition 8-2 requires that ground-disturbing activities cannot occur prior to preparation and submission of the EMP to the satisfaction of the CEO.

The proponent has therefore requested that this appeal ground be dismissed.

Conclusion

Noting both the EPA and PTA views about the value of further input from the Quinns Rocks Environmental Group, and noting the discussion under Ground 1 of this appeal about the need for the final details of the EMP to be developed in a way which maximises the environmental benefits of the proposed underpass, it is recommended that the Minister writes to the Minister for Transport endorsing further input by the group into the development of the final EMP.

It is not considered necessary, on balance, for the conditions to be amended to achieve this outcome, as it is expected that the parties will achieve the same end based on the cooperative working relationship that is understood to exist.

CONCLUSIONS AND RECOMMENDATIONS

In reviewing the matters raised by the appellant, it is considered that the EPA has had appropriate regard to the potential fauna linkage impacts of the proposal at the Alkimos PRR crossing. The conclusion that a fauna underpass was appropriate for mitigating the potential impacts was supported by the findings of the appeal investigation.

It is further considered appropriate for the development of the EMP to occur in consultation with the appellant noting its valuable local environmental knowledge, and it is recommended the Minister convey this expectation to the Minister for Transport accordingly.

The final decision on whether or not the proposal should be implemented, and on the precise wording of the conditions which should apply, is to be made under section 45 of the EP Act.

Emma Gaunt
APPEALS CONVENOR

Investigating Officer:
Simon Weighell, A/Senior Appeals Officer