



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEALS AGAINST REPORT AND RECOMMENDATION OF THE ENVIRONMENTAL PROTECTION AUTHORITY – BUNBURY OUTER RING ROAD NORTHERN AND CENTRAL SECTIONS (EPA REPORT 1682)**

#### **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 report and recommendations of the Environmental 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellants:</b>	Michael Tichbon Charles Kampanelli Donna Brown Kieran Noonan
<b>Proponent:</b>	Commissioner of Main Roads Western Australia
<b>Proposal description:</b>	Northern and Central Sections of the Bunbury Outer Ring Road proposal
<b>Minister's Decision:</b>	The Minister allowed the appeals in part
<b>Date of Decision:</b>	12 November 2020

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#### **REASONS FOR MINISTER'S DECISION**

The proposal the subject of the appeals is for the construction and operation of 19 kilometres of the Bunbury Outer Ring Road. The proposal includes a freeway standard dual carriageway and associated bridges, interchanges and other road infrastructure. The Commissioner of Main Roads Western Australia is the proponent.

The key concerns raised by the appeals relate to the extension of Willinge Drive to the south, where appellants considered that the community consultation had been inadequate and challenged the impacts to flora and fauna, and amenity from artificial light. One appellant made recommendations regarding potential offset sites for the proposal. Appellants also raised concerns regarding the alignment of the proposal and impacts relating to agricultural land and raw materials.

Having considered the information available, including the Environmental Protection Authority's (EPA) response to the appeals and the Appeals Convenor's report, the Minister was satisfied that the EPA's assessment of the proposal was appropriate.

However, the Minister was of the view that the reporting and monitoring of management requirements for western ringtail possum and south western brush-tailed phascogale can be improved. Therefore, the Minister allowed the appeals to the extent that the recommended conditions are amended as follows:

1. Condition 6-1(3) is amended to require the results of the baseline study to be reported to the CEO and Department of Biodiversity, Conservation and Attractions and the words 'and/or' is replaced with 'and'.
2. Condition 6-2(2) is amended to require the monitoring and management actions in condition 6-1(3)(b) to be implemented, in addition to other 'appropriate protocols'.
3. Condition 7-4 requires the proponent to monitor and report on utilisation of the fauna crossings.

The Minister otherwise decided to dismiss the appeals. The reasons for his decision are outlined below.

### **Community consultation, artificial light and impacts to flora and fauna**

The Minister understood that in relation to the extension of Willinge Drive to the south, including the bridge over the Preston River and roundabout at Lillydale Road, concerns have been raised regarding community consultation, artificial light and impacts to flora and fauna.

The proponent advised that it had undertaken targeted consultation relating to the Willinge Drive extension and also wider consultation regarding the overall project, which included the Willinge Drive extension. The EPA advised that the consultation process was appropriate and that reasonable steps had been taken to inform the community and stakeholders about the proposed development.

The Minister noted the EPA's advice that impacts from artificial light will be minor and highly localised. Light impacts will be managed through the proponent's Construction Environmental Management Plan and mitigation strategies which will be developed to comply with Australian Standard for lighting of public roads.

In relation to the potential impacts to flora and fauna from the extension of Willinge Drive, the Minister noted that the EPA identified direct and indirect impacts to the western ringtail possums, south western brush-tailed phascogale, black cockatoos and Carter's freshwater mussel. The Minister understood that these impacts were considered as part of the EPA's assessment of the proposal and that the impacts are acceptable subject to the recommended conditions. This includes offsets to counterbalance significant impacts and that the proposal is to have no adverse impacts on the viability of the local western ringtail possum population in habitats adjacent to and outside the development envelope.

The Minister agreed with the Appeals Convenor that the recommended conditions should be amended as outlined above, which includes improved reporting and monitoring of management actions for western ringtail possums and south western brush-tailed phascogale.

### **Offsets**

One appellant submitted details for a number of local offset sites, in addition to the offsets recommended by the EPA, and suggested that these should have been considered in its assessment. The EPA advised that it considered the Offset Strategy provided by the proponent and was satisfied that it addressed the identified significant residual impacts from the proposal.

**Alternative proposals, raw materials and agricultural land**

In relation to the proposal assessed, appellants submitted that the EPA should have considered alternatives including a former alignment and should also have considered potential future rail and airport expansions. The EPA advised that it assessed the proposal as referred and concluded that the proposal may be implemented subject to the recommended conditions.

The EPA also advised that the environmental impacts associated with the extraction of raw materials are assessed and regulated separately and that the loss of agricultural land was not considered to be a significant impact for the proposal.

As to the other matters raised by the appeals, the Minister has considered the advice provided by the EPA and the Appeals Convenor, and was of the view that the EPA has appropriately considered these issues.

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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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