



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST REPORT AND RECOMMENDATIONS OF THE ENVIRONMENTAL PROTECTION AUTHORITY LAKE WELLS POTASH PROJECT (EPA REPORT 1688)

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 100(1)(d) of the *Environmental Protection Act 1986* in objection to the Environmental Protection Authority's Report and Recommendations in respect to 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.

Appellant:	Mr Kado Muir
Proponent:	Australian Potash Limited
Proposal description:	The proponent proposes to clear and disturb up to 3,220 hectares within a 13,951 hectare development envelope to produce sulphate of potash through the abstraction, evaporation and processing of potassium and sulphate rich brines at Lake Wells, located 160 kilometres north-northeast of Laverton
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	18 January 2021

REASONS FOR MINISTER'S DECISION

The proposal the subject of the appeal is the development of the Lake Wells Potash Project by Australian Potash Limited (the proponent). The proposal is to produce sulphate of potash through the abstraction, evaporation and processing of potassium and sulphate rich brines found in the paleochannel aquifer at Lake Wells, approximately 160 kilometres north-northeast of Laverton.

The Minister obtained a report from the Environmental Protection Authority (EPA) in response to the appeal under section 106 of the *Environmental Protection Act 1986* (EP Act). This report was considered by the Appeals Convenor, and the Minister understood representatives of the Office of the Appeals Convenor consulted with the appellant to discuss the appeal.

The Minister considered the Appeals Convenor's report, which sets out the background and related matters to the appeal, including recommendations on how the appeal should be resolved.

The Minister noted the key concerns raised by the appeal relate to the adequacy of the proponent's consultation with the appellant and the broader Waturta Applicant group and Mr Muir's view that as a result, amongst other things, the EPA's assessment was incomplete and inadequate in relation to impacts on Social Surroundings.

Having considered the information provided during the appeal investigation, the Minister was satisfied that the EPA's assessment of the proposal was appropriate and sufficient to establish the risk posed to its factor Social Surrounds. This is on the basis that the EPA's report and recommendations considered multiple sources of information to inform its assessment and its advice that any residual uncertainty can be managed through the development and implementation of the Cultural Heritage Management Plan (CHMP) required by condition 9.

The Minister noted in this regard that the objective specified in condition 9-1 for the CHMP is to avoid where possible, and minimise impacts to heritage. Condition 9-2 outlines what is to be included in the CHMP. This includes the methodology and scope of pre-clearance surveys prior to disturbance and the framework for ongoing consultation with relevant stakeholders during the life of the proposal. While the Minister accepted the Appeals Convenor's advice that the general intent of the conditions is reasonable, the Minister noted that there are competing views as to the level of detail required at condition 9-2 to ensure that the objective set in condition 9-1 can be achieved.

The Minister has therefore decided to allow the appeal to the extent that condition 9 be amended to require the CHMP be independently reviewed by an independent person determined by the Chief Executive Officer of the Department of Water and Environmental Regulation on advice of the appropriate knowledge-holders and the proponent. This will enable an independent evaluation of the suitability of pre-clearance survey methodology and adequacy of the framework for consultation with the appropriate knowledge-holders and stakeholders, including the appellant.

The Minister has otherwise dismissed the appeal.

The Minister will now commence consultation with relevant decision-making authorities as to whether or not the proposal may be implemented, and the conditions which apply to any such implementation, under section 45(1) of the EP Act. The final wording of the conditions applying to the proposal's implementation will be determined through that process.

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 22, 221 St Georges Terrace
Perth WA 6000

Tel: (08) 6364 7990

www.appealsconvenor.wa.gov.au