



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 – TIMS THICKET LIQUID WASTE FACILITY UPGRADE (EPA REPORT 1657)**

#### **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 Environmental Protection Authority's Report and Recommendations 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>	Klaus and Patricia Becker; Diane Glasson; Reginald and Carole Anderson; Ivan Wiltshire; Rachel Wells; Dennis O'Brien; Rodney Reany; Ross Smith; Patricia Smith; Mel Spinocchia; Barry Posetti; Stewart and Susanne Godden; Malcolm and Gloria Flett; Andrew Harvey; Bouvard Coastcare Group; Peel Preservation Group Inc; Mandurah Environment & Heritage Group
<b>Proponent:</b>	City of Mandurah
<b>Proposal description:</b>	Upgrade of liquid waste facility, Class I inert landfill and limestone quarry at the Tims Thicket Waste Management Facility
<b>Minister's Decision:</b>	The Minister allowed in part the appeals
<b>Date of Decision:</b>	5 August 2020

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

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The proposal the subject of the EPA's report is a quarry, inert landfill and septage facility operated by the City of Mandurah at Tims Thicket. The proposal was first approved in 1994, along with associated boundary changes to Yalgorup National Park as part of a land swap arrangement.

The site has been in operation since 1995. The septage facility ceased accepting waste in 2014 due to a breach of the liners of the anaerobic ponds, and has not been operational from that time. The site has since been operating solely as a Class I inert landfill, accepting inert fill and crushing building material, and is subject to licensing under Part V of the *Environmental Protection Act 1986* (the Act).

In 2017, the City of Mandurah proposed to recommence operations at the septage facility, which included reconstruction of all of the existing ponds and fitting with new HDPE liners, and the addition of an evaporation pond. The EPA subsequently accepted a referral of the proposal for the upgrade of the septage facility and existing quarry and inert landfill. The EPA published Report 1657 on the outcome of its assessment, which was the subject of the appeals.

The Minister understood the key concerns raised in the appeals included risks associated with leakage from the septage facility to groundwater, impacts associated with dust and noise, and the previous record of the City of Mandurah in managing emissions from the premises. Concerns were also raised about the EPA's assessment, with some appellants submitting that the recommended changes to the conditions applying to the proposal fail to address concerns over emissions, and otherwise delete requirements that applied in the original approval without justification. In addition, appellants contended that the EPA's assessment of flora and fauna was inadequate, and that the proposal may impact significant biodiversity values within the local area.

The Minister carefully considered the issues the appellants had raised, and acknowledged the strong level of concern in the local community about the facility since 1994.

Having considered the information available, including the EPA's response to the appeals and the Appeals Convenor's report and recommendation, the Minister was satisfied that the EPA's assessment of the proposal was appropriate and sufficient to establish the environmental risks posed by the proposal.

The Minister agreed with the Appeals Convenor, however, that the conditions recommended by the EPA should be modified to clearly specify that the proposal includes the quarry, landfill and septage facility. The Minister therefore allowed the appeals to the extent that the recommended conditions be modified accordingly. The Minister otherwise dismissed the appeals. The full reasons for the decision are set out below.

In relation to potential impacts to groundwater, the Minister noted that in response to community concerns, the City of Mandurah modified the proposal during the EPA's assessment process and designed a closed pond system which does not discharge liquid waste to the environment. The EPA had advised that the City is required to seek approval for a works approval and licence amendment under Part V of the Act for the proposed upgrades to the septage facility, which may include management and mitigation measures including groundwater monitoring requirements. The Minister noted that the EPA consulted with the Department of Water and Environmental Regulation (DWER) during the assessment, which advised that potential emissions and discharges, including odour and dust, from the facility can be adequately assessed and regulated through the licensing process under Part V of the Act.

The Minister noted also that the proponent is required to comply with the *Environmental Protection (Noise) Regulations 1997*, and ensure that the amount of noise emitted from operations does not exceed allowable levels.

Noting the concerns raised by appellants about the facility, it is the Minister's expectation that any future decisions of DWER fully consider the history of the site and ensure that the facility meets the necessary standards. To this end, the Minister had asked DWER to ensure the local community is consulted about its licensing assessment process for the facility before any final decisions are made. The Minister noted that the Act provides an opportunity to appeal decisions in respect to the conditions of any works approval or licence issued for the facility, which provides an additional review mechanism.

In relation to the EPA's assessment process, appellants submitted that the EPA removed a number of requirements that applied in the original approval under Ministerial Statement 375 (MS 375) without adequate assessment or explanation. The Minister noted concerns were also raised that the public was not properly informed or consulted during development and assessment of the proposal.

The Minister was advised by the EPA that replacing the original approval under MS 375 with a revised Ministerial Statement is appropriate, given that many of the requirements of MS 375 have already been met, others were no longer relevant, standard conditions remain and have been contemporised, and several can be managed by DWER through its licensing process or by other statutory processes.

Based on the information before him, the Minister was satisfied that the revised conditions recommended by the EPA are appropriate. However, to make clear that any new approval encompasses all elements of the proposal, the Minister varied the recommended conditions by clarifying that it applies to the quarry and landfill, and is not limited to the proposed upgrade of the septage facility.

In relation to public consultation, the Minister was advised that the EPA had undertaken its assessment of the proposal consistent with relevant procedures, and had regard to information and comments received from the public and relevant government agencies. In Report 1657, the EPA has recommended an increase in ongoing consultation between the City of Mandurah and the community in relation to the facility. The EPA also recommended that in the future when local septic systems are replaced with reticulated sewerage, the septage facility should be decommissioned and rehabilitated, with appropriate community agreement on the final land use.

With regard to appellants' concerns relating to impacts to conservation significant flora and fauna habitat, the Minister was advised that the EPA's assessment took into account the risks posed from implementation of the proposal. The Minister noted that the EPA had recommended Condition 6 (Disease hygiene management) be applied to ensure appropriate dieback and weed management measures are implemented to prevent the incursion of dieback and weeds into the area.

As to the other matters raised by the appeals, the Minister considered the advice provided to him by the EPA and the Appeals Convenor, and was of the view that the EPA had 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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