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Published on: 21 November 2023

Statement No. 1213

STATEMENT THAT A PROPOSAL MAY BE IMPLEMENTED
(Environmental Protection Act 1986)

BANKSIA ROAD LANDFILL, DARDANUP.
CONSTRUCTION AND OPERATION OF CELLS 9, 10 AND 12A

Proposal: The Banksia Road Landfill proposal is to construct and operate landfill cells 9, 10 and 12A and associated infrastructure ten kilometres (km) east of Bunbury in the Shire of Dardanup

Proponent: Cleanaway Solid Waste Pty Ltd
Australian Company Number 120 175 635

Proponent address: Level 4, 441 St Kilda Road
MELBOURNE VIC 3004

Assessment number: 2303

Report of the Environmental Protection Authority: 1747

Introduction: Pursuant to section 45 of the *Environmental Protection Act 1986*, it has been agreed that the proposal entitled Banksia Road Landfill, Dardanup. Construction and Operation of Landfill Cells 9, 10 and 12A described in the proposal content elements, may be implemented and that the implementation of the proposal is subject to the following implementation conditions and procedures:

Conditions and procedures

Part A: Proposal extent

Part B: Environmental outcomes, prescriptions and objectives

Part C: Environmental management plans and monitoring

Part D: Compliance and other conditions

Part A: Proposal extent

Limitations and extent of proposal

A1-1 The proponent must ensure that the proposal is implemented in such a manner that the following limitation or maximum extents / capacities / ranges are not exceeded:

Proposal element	Location	Maximum extent or range
Physical elements		
Development envelope	Figure 1	Disturbance of up to 7 hectares within a Development Envelope of 121 hectares.
Maximum development height		130 metres AHD (top of waste – 128 metres plus 2 metres capping)
Net GHG emissions		Up to 45,000 tCO₂-e per annum, excluding biogenic emissions
Timing elements		
Project life		Landfilling operations of up to 27 years from date of substantial commencement of operations

PART B – ENVIRONMENTAL OUTCOMES, PRESCRIPTIONS AND OBJECTIVES

B1 Waste Minimisation

B1-1 The proponent must implement the proposal to meet the following environmental objectives:

- (1) the proposal's acceptance of waste volumes, types of waste and disposal methods:
 - (a) are consistent with the principles of waste minimisation and the waste hierarchy and align with Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 (as amended or replaced);
 - (b) are consistent with diversion of relevant waste streams away from landfill where practicable;
 - (c) are consistent with waste being accepted from producers and/or suppliers who operate in accordance with a waste minimisation policy consistent with the Western Australia's Waste Avoidance and Resource Recovery Strategy 2030 (as amended or replaced) and recognised state and national product stewardship schemes; and
 - (d) are reviewed every five (5) years and continuous improvements are implemented to ensure consistency with the above are included.

B1-2 The proponent must prepare an environmental management plan that satisfies the requirements of condition C4 and demonstrates how the waste minimisation environmental objectives in condition B1-1 will be achieved, and submit it to the CEO.

PART C – ENVIRONMENTAL MANAGEMENT PLANS AND MONITORING

C1 Environmental Management Plans: Conditions Related to Commencement of Implementation of the Proposal

C1-1 The proponent must not undertake **operations** until the **CEO** has confirmed in writing that the environmental management plan required by condition B1-2 meets the requirements of that condition.

C2 Environmental Management Plans: Conditions Relating to Approval, Implementation, Review and Publication

C2-1 Upon being required to implement an environmental management plan under Part B, or after receiving notice in writing from the **CEO** under condition B1-2 that the environmental management plan required in Part B satisfies the relevant requirements, the proponent must:

- (1) implement the most recent version of the confirmed environmental management plan; and
- (2) continue to implement the confirmed environmental management plan referred to in condition C2-1(1), other than for any period which the CEO confirms by notice in writing that it has been demonstrated that the relevant requirements for the environmental management plan have been met, or are able to be met under another statutory decision-making process, in which case the implementation of the environmental management plan is no longer required for that period.

C2-2 The proponent:

- (1) may review and revise a **confirmed** environmental management plan provided it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan; and
- (2) must review and revise a **confirmed** environmental management plan and ensure it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan, as and when directed by the **CEO**.

C2-3 Despite condition C2-1, but subject to condition C2-4, the proponent may implement minor revisions to an environmental management plan if the revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.

C2-4 If the proponent is to implement minor revisions to the environmental management plan under condition C2-3, the proponent must provide the **CEO** with the following at least twenty (20) business days before it implements the revisions:

- (1) the revised environmental management plan clearly showing the minor revisions;
- (2) an explanation of and justification for the minor revisions; and
- (3) an explanation of why the minor revisions will not result in new or increased adverse impacts to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.

C2-5 The proponent must cease to implement any revisions which the **CEO** notifies the proponent (at any time) in writing may not be implemented.

C2-6 The **confirmed** environmental management plan, and any revised environmental management plan under conditions C2-2 and C2-4, must be published on the proponent's website and provided to the **CEO** in electronic form suitable for online publication by the Department of Water and Environmental Regulation within twenty (20) business days of being implemented, or being required to be implemented (whichever is earlier).

C3 Conditions Related to Monitoring

C3-1 The proponent must undertake monitoring capable of:

- (1) substantiating whether the proposal limitations and extents in Part A are exceeded.

C3-2 The proponent must submit as part of the Compliance Assessment Report required by condition D2 and to the other decision-making authority, a compliance monitoring report that:

- (1) outlines the monitoring that was undertaken during the implementation of the proposal;
- (2) identifies why the monitoring was capable of substantiating whether the proposal limitation and extents in Part A are exceeded;
- (3) outlines the results of the monitoring;
- (4) reports whether the proposal limitations and extents in Part A were exceeded, based on analysis of the results of the monitoring; and
- (5) reports any actions taken by the proponent to remediate any potential non-compliance.

C4 Environmental Management Plans: Conditions Related to Management Actions and Targets for Objective Based Conditions

C4-1 The environmental management plan required under condition B1-2 must contain provisions which enable the achievement of the relevant objectives of

those conditions and substantiation of whether the objectives are reasonably likely to be met, and must include:

- (1) management actions;
- (2) management targets;
- (3) contingency measures if management targets are not met; and
- (4) reporting requirements.

C4-2 Without limiting condition C2-1, the failure to achieve an environmental objective, or implement a management action, regardless of whether contingency measures have been or are being implemented, represents a non-compliance with these conditions.

PART D – COMPLIANCE, TIME LIMITS, AUDITS AND OTHER CONDITIONS

D1 Non-compliance Reporting

D1-1 If the proponent becomes aware of a potential non-compliance, the proponent must:

- (1) report this to the **CEO** within seven (7) days;
- (2) implement **contingency measures**;
- (3) investigate the cause;
- (4) investigate environmental impacts;
- (5) advise rectification measures to be implemented;
- (6) advise any other measures to be implemented to ensure no further impact; and
- (7) provide a report to the **CEO** within twenty-one (21) days of being aware of the potential non-compliance, detailing the measures required in conditions D1-1(1) to D1-1(6) above.

D1-2 Failure to comply with the requirements of a condition, or with the content of an environmental management plan required under a condition, constitutes a non-compliance with these conditions, regardless of whether the **contingency measures**, rectification or other measures in condition D1-1 above have been or are being implemented.

D2 Compliance Reporting

D2-1 The proponent must provide an annual Compliance Assessment Report to the **CEO** for the purpose of determining whether the implementation conditions are being complied with.

D2-2 Unless a different date or frequency is approved by the **CEO**, the first annual Compliance Assessment Report must be submitted within fifteen (15) months of the date of this Statement, and subsequent reports must be submitted annually from that date.

D2-3 Each annual Compliance Assessment Report must be endorsed by the proponent's Chief Executive Officer, or a person approved by proponent's Chief Executive Officer to be delegated to sign on the Chief Executive Officer's behalf.

D2-4 Each annual Compliance Assessment Report must:

- (1) state whether each condition of this Statement has been complied with, including:
 - (a) exceedance of any proposal limits and extents;

- (b) achievement of environmental outcomes;
 - (c) achievement of environmental objectives;
 - (d) requirements to implement the content of environmental management plans;
 - (e) monitoring requirements;
 - (f) implementation of **contingency measures**;
 - (g) requirements to implement adaptive management;
 - (h) reporting requirements;
- (2) include the results of any monitoring (inclusive of any raw data and laboratory analytical reports) that has been required under Part C in order to demonstrate that the limits in Part A, and any outcome or any objectives are being met;
 - (3) provide evidence to substantiate statements of compliance, or details of where there has been a non-compliance;
 - (4) include the corrective, remedial and preventative actions taken in response to any potential non-compliance;
 - (5) be provided in a form suitable for publication on the proponent's website and online by the Department of Water and Environmental Regulation; and
 - (6) be prepared and published consistent with the latest version of the Compliance Assessment Plan required by condition D2-5 which the **CEO** has confirmed by notice in writing satisfies the relevant requirements of Part C and Part D.

D2-5 The proponent must prepare a Compliance Assessment Plan which is submitted to the **CEO** at least six (6) months prior to the first Compliance Assessment Report required by condition D2-2, or prior to implementation of the proposal, whichever is sooner.

D2-6 The Compliance Assessment Plan must include:

- (1) what, when and how information will be collected and recorded to assess compliance;
- (2) the methods which will be used to assess compliance;
- (3) the methods which will be used to validate the adequacy of the compliance assessment to determine whether the implementation conditions are being complied with;
- (4) the retention of compliance assessments;

- (5) the table of contents of Compliance Assessment Reports, including audit tables; and
- (6) how and when Compliance Assessment Reports will be made publicly available, including usually being published on the proponent's website within sixty (60) days of being provided to the **CEO**.

D3 Contact Details

D3-1 The proponent must notify the **CEO** of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

D4 Time Limit for Proposal Implementation

D4-1 The proposal must be substantially commenced within five (5) years from the date of this Statement.

D4-2 The proponent must provide to the **CEO** documentary evidence demonstrating that they have complied with condition D4-1 no later than fourteen (14) days after the expiration of period specified in condition D4-1.

D4-3 If the proposal has not been substantially commenced within the period specified in condition D4-1, implementation of the proposal must not be commenced or continued after the expiration of that period.

D5 Public Availability of Data

D5-1 Subject to condition D5-2, within a reasonable time period approved by the **CEO** upon the issue of this Statement and for the remainder of the life of the proposal, the proponent must make publicly available, in a manner approved by the **CEO**, all validated environmental data collected before and after the date of this Statement relevant to the proposal (including sampling design, sampling methodologies, monitoring and other empirical data and derived information products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

D5-2 If:

- (1) any data referred to in condition D5-1 contains trade secrets; or
- (2) any data referred to in condition D5-1 contains particulars of confidential information (other than trade secrets) that has commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published,

the proponent may submit a request for approval from the **CEO** to not make this data publicly available and the **CEO** may agree to such a request if the **CEO** is satisfied that the data meets the above criteria.

D5-3 In making such a request the proponent must provide the **CEO** with an explanation and reasons why the data should not be made publicly available.

D6 Independent Audit

D6-1 The proponent must arrange for an independent audit of compliance with the conditions of this Statement, including achievement of the environmental outcomes and/or the environmental objectives and/or environmental performance with the conditions of this Statement, as and when directed by the **CEO**.

D6-2 The independent audit must be carried out by a person with appropriate qualifications who is nominated or approved by the **CEO** to undertake the audit under condition D6-1.

D6-3 The proponent must submit the independent audit report with the Compliance Assessment Report required by condition D2-1, or at any time as and when directed in writing by the **CEO**. The audit report is to be supported by credible evidence to substantiate its findings.

D6-4 The independent audit report required by condition D6-1 is to be made publicly available in the same timeframe, manner and form as a Compliance Assessment Report, or as otherwise directed by the **CEO**.

[signed on 21 November 2023]

Hon Reece Whitby MLA
MINISTER FOR ENVIRONMENT; CLIMATE ACTION

Key decision-making authority consulted under section 45(2):
Department of Water and Environmental Regulation

Table 2: Abbreviations and definitions

Acronym or abbreviation	Definition or term
Adverse impact / adversely impacted	Negative change that is neither trivial nor negligible that could result in a reduction in health, diversity or abundance of the receptor/s being impacted, or a reduction in environmental value. Adverse impacts can arise from direct or indirect disturbance, or other impacts from the proposal such as (but not limited to) hydrological change, spread or introduction of environmental weeds, altered fire regimes, introduction or spread of disease, changes in erosion/deposition/accretion and edge effects.
AHD	Australian Height Datum
Authorised offsets	Units representing GHG emissions issued under one of the following schemes and cancelled or retired in accordance with any rules applicable at the relevant time governing the cancellation or retiring of units of that kind: (a) Australian Carbon Credit Units issued under the Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth); (b) Verified Emission Reductions issued under the Gold Standard program; (c) Verified Carbon Units issued under the Verified Carbon Standard program; or (d) other offset units that the Minister has notified the proponent in writing meet integrity principles and are based on clear, enforceable and accountable methods.
Biogenic	Carbon dioxide emissions associated with the generation and combustion of landfill gas.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or the CEO's delegate.
Commencement of operations	Means commencing operation of the proposal and includes pre-commissioning, commissioning, start-up and operation of the proposal.
Confirmed	In relation to a plan required to be made and submitted to the CEO , means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition. In relation to a plan required to be implemented without the need to be first submitted to the CEO , means that plan until it is revised, and then means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition.
Contingency measures	Planned actions for implementation if it is identified that an environmental outcome, environmental objective, threshold criteria or management target are likely to be, or are being, exceeded. Contingency measures include changes to operations or reductions in disturbance to reduce impacts and must be decisive actions that will quickly bring the impact to below any relevant threshold, management target and to ensure that the environmental outcome and/or objective can be met.

Acronym or abbreviation	Definition or term
Greenhouse Gas or GHG	Has the meaning given by Section 7A of the National Greenhouse and Energy Reporting Act 2007 (Cth) or, if that definition is amended or repealed, the meaning set out in an Act, regulation or instrument concerning greenhouse gases as specified by the Minister.
Net GHG emissions	<p>Proposal GHG emissions for a period less any reduction in GHG Emissions represented by the cancellation or retirement of authorised offsets which:</p> <ul style="list-style-type: none"> (a) were cancelled or retired between the first day of the period until 1 March in the year after the period has ended; (b) have not been used to offset GHG emissions other than proposal GHG emissions; and (c) were not generated by avoiding proposal GHG emissions.
Operations / operational	Operation of the infrastructure for the proposal and includes pre-commissioning, commissioning, start-up and operation of the infrastructure for the proposal.
Proposal GHG emissions	GHG emissions released to the atmosphere as a direct result of an activity or series of activities that comprise/s or form/s part of the proposal.
tCO₂-e	Tonnes of carbon dioxide equivalent. A metric used to compare emissions from various greenhouse gases by converting amounts of other gases to the equivalent amount of carbon dioxide based on their Global Warming Potential.



Figure 1: Banksia Road Landfill development envelope and disturbance footprint (This map is a representation of the co-ordinates referenced in Schedule 1)

Schedule 1

All co-ordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 2020 (GDA20).

Spatial data depicting the figures are held by the Department of Water and Environmental Regulation. Record no DWERDT179896.