



Report and recommendations of the Environmental Protection Authority



Yanchep Rail Extension Part 2 - Eglinton to Yanchep – inquiry under section 46 of the *Environmental Protection Act 1986* to amend Ministerial Statement 1129

Public Transport Authority of Western Australia

Report 1693

December 2020

Inquiry under section 46 of the *Environmental Protection Act 1986*

The Minister for Environment has requested that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing implementation conditions 11-1 and 11-8 (Offsets) of Ministerial Statement 1129 relating to the Yanchep Rail Extension Part 2 – Eglinton to Yanchep, and the offset requirements pertaining to Bush Forever site 289 be clarified.

Section 46(6) of the *Environmental Protection Act 1986* requires the EPA to prepare a report that includes:

- (a) a recommendation on whether or not the implementation conditions to which the inquiry relates, or any of them, should be changed
- (b) any other recommendations that it thinks appropriate.

The following is the EPA's report to the Minister pursuant to s. 46(6) of the *Environmental Protection Act 1986*.



Lee McIntosh
Deputy Chair

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Contents

1. The Proposal.....	1
2. Requested Changes to the Conditions	2
3. Inquiry into Changing the Conditions	3
4. Inquiry Findings.....	4
4.1 Flora and Vegetation	4
4.2 Terrestrial Fauna	7
5. Conclusions and Recommendations.....	9
References	11
Appendix 1: Identified Decision-Making Authorities and Recommended Environmental Conditions	12

1. The Proposal

The Yanchep Rail Extension Part 2 – Eglinton to Yanchep (the proposal) is to construct and operate a 7.2 kilometre extension to the Joondalup railway line from the future Eglinton Station to the suburb of Yanchep in the City of Wanneroo. The proposal includes one new intermodal transit station at Yanchep, principal shared path, bridge infrastructure, and construction and access areas. The proponent for the proposal is the Public Transport Authority of Western Australia.

The Environmental Protection Authority (EPA) assessed the proposal at the level of Public Environmental Review and published its report in November 2019 (Report 1656). In this report, the EPA identified the following key environmental factors during the course of its assessment of the proposal:

- Flora and Vegetation
- Terrestrial Fauna
- Social Surroundings.

The EPA concluded in Report 1656, that the proposal is environmentally acceptable and recommended that the proposal may be implemented subject to conditions.

The Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement (MS) 1129 on 14 April 2020.

Previously approved changes to the proposal

The following changes to the proposal were approved under s. 45C of the *Environmental Protection Act 1986* on 4 November 2020 (Attachment 1 of MS 1129):

- Increase in the development envelope by 1.3 hectares (ha) from 72.9 to 74.2 ha
- Increase in the authorised extent of clearing and disturbance by 3.3 ha from 62.3 to 65.6 ha which includes additional clearing of:
 - 3.3 ha of native vegetation from 57.7 to 61.0 ha
 - 0.9 ha of Banksia woodlands of the Swan Coastal Plain (SCP) from 8.8 to 9.7 ha
 - 2.5 ha of Carnaby's cockatoo foraging habitat from 56.3 to 58.8 ha.

There have been no changes to the implementation conditions since MS 1129 was issued.

2. Requested Changes to the Conditions

In October 2020, the proponent requested changes to offset conditions 11-1 and 11--8 of MS 1129 to reflect the changes to the proposal requested and subsequently approved under s. 45C in order to accurately reflect the residual impacts of the proposal required to be offset.

The proponent also requested that the offset conditions be amended to specify the vegetation condition within the Bush Forever site 289 (BF 289) for which offsets were required (27.7 ha). The proponent stated there was a discrepancy between 27.7 ha being required to be offset under condition 11-1 and 11-8 and the 28.8 ha referred to in schedule 1. The proponent submitted that the 1.1 ha difference between the 27.7 ha (for which offsets were required) and the total 28.8 ha (of BF 289 within the development envelope) was confusing and a condition change was needed to make it clear that for the 1.1 ha of BF 289 which was considered completely degraded, an offset was not required.

In November 2020, the Minister for Environment requested that the EPA inquire into and report on the matter of changing the implementation conditions of MS 1129 for the Yanchep Rail Extension Part 2 – Eglinton to Yanchep pertaining to offsets. This report satisfies the requirements of the EPA's inquiry.

3. Inquiry into Changing the Conditions

The EPA has discretion as to how it conducts this inquiry. In determining the extent and nature of this inquiry, the EPA had regard to information such as:

- the currency of its original assessment (Report 1656, November 2019)
- MS 1129 (April 2020)
- approved changes to the proposal (November 2020)
- information provided by the proponent during the course of the EPA's consideration of the request to change the proposal, and the request to change the conditions
- the currency of the information regarding the potential impacts of the proposal on the environment – biological surveys completed from 2016 to September 2020.

EPA Procedures

The EPA followed the procedures in the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* (State of Western Australia 2016) and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (EPA 2020a).

4. Inquiry Findings

The EPA considered that the following are the key environmental factors relevant to the change to the conditions:

- Flora and Vegetation
- Terrestrial Fauna.

Social Surroundings is not considered a key environmental factor relevant to the change to the conditions because the approved change to the proposal did not result in a change to the potential impacts of the proposal to Social Surroundings, given the primary considerations for that factor were noise and vibration.

4.1 Flora and Vegetation

The EPA's environmental objective for Flora and Vegetation is *to protect flora and vegetation so that biological diversity and ecological integrity are maintained.*

Conclusions from EPA Report 1129

The EPA considered that the proposal had the potential to directly and indirectly impact flora and vegetation, including through the clearing of Threatened and Priority Ecological Communities and from the bisection and fragmentation of a large regional east-west ecological linkage.

The EPA noted that 8.1 ha of the 8.8 ha of the Banksia dominated woodlands of the SCP IBRA region Priority Ecological Community (PEC) to be cleared was considered representative of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed Banksia Woodlands of the SCP Threatened Ecological Community (TEC).

To manage these impacts, the EPA recommended:

- there is a limit on the clearing of Banksia woodlands of the SCP through the authorised extent in Schedule 1
- maintenance of the ecological linkage across BF 289 through the construction and ongoing management of 'green bridges' (condition 6)
- a requirement to minimise indirect impacts to flora and vegetation within BF 289 through the preparation and implementation of an environmental management plan and revegetation of areas not required for ongoing operations (conditions 7 and 8)
- implementation of offsets to counterbalance the significant residual impact to TEC SCP 26a '*Melaleuca huegelii* – *Melaleuca systema* shrublands on limestone ridges (Gibson et al. 1994 type 26a)', 8.1 ha of Banksia woodlands of the SCP PEC, and BF 289 Ningana Bushland (condition 11).

Assessment of the requested change to conditions

The EPA considers that the *Environmental Factor Guideline – Flora and Vegetation* (EPA 2016a) is the current environmental policy and guidance relevant to its assessment of the proposal for this factor.

The EPA considers that the flora and vegetation surveys undertaken for the original assessment as supplemented by the information provided with the applications for amendment to the proposal and to the conditions, are adequate for this inquiry because of their currency and coverage of the proposal impacts.

The EPA notes that since its assessment of the original proposal, the legally listed characteristics of the Banksia dominated woodlands of the SCP IBRA region PEC have been amended to align with the EPBC Act listed Banksia Woodlands of the SCP TEC. The description, area and condition thresholds that apply to the EPBC listed TEC, also apply to the now called Banksia woodlands of the SCP PEC (DBCA 2020).

The approved change to the proposal has resulted in an increase in the extent of clearing of Banksia woodlands of the SCP from 8.8 ha to 9.7 ha, all of which is considered a sub-community of the Banksia Woodlands of the SCP TEC. During the course of its assessment of the approved change, the EPA considered that this addition would not have a significant residual impact in its own right, but that an offset should be required for it when combined with the significant residual impact of the original proposal, both for consistency, and to deal with the combined impact. The total significant residual impact from the clearing of Banksia woodlands of the SCP that requires an offset is therefore now 9.7 ha.

The EPA considers it appropriate to ensure the combined residual impact of the original proposal and the approved change to the proposal is offset using the framework of the existing offset conditions. The EPA has therefore recommended conditions 11-1 (2) and 11-8 (1) are amended to reflect the full extent of the residual impact of the now amended proposal to Banksia woodlands of the SCP.

The proponent has also requested that condition 11-1 (5) and 11-8 (4) be amended so that an offset is only required to counterbalance the significant residual impact to BF 289 which is in Degraded or better condition. That is, the proponent has requested that the condition be amended so it is clear the proponent does not have to provide an offset for cleared land or vegetation which is in a completely degraded condition.

The EPA notes that the proposal combined with the approved change will result in a loss of 28.8 ha from BF 289, of which 1.1 ha is either cleared or in completely degraded condition and cannot be considered regionally significant vegetation. The EPA therefore assessed the significant residual impact to BF 289 to be 27.7 ha and not 28.8 ha. The EPA notes that conditions 11-1 and 11-8 reference to 27.7 ha already takes into account that the 1.1 ha is already cleared or completely degraded. The EPA therefore does not consider the amendment requested by the proponent is needed.

Having regard to the changed proposal and other relevant information, the EPA has recommended that conditions 11-1 and 11-8 (Offsets) are deleted and replaced with new conditions as set out in section 5 and Appendix 1.

4.2 Terrestrial Fauna

The EPA's environmental objective for Terrestrial Fauna is *to protect terrestrial fauna so that biological diversity and ecological integrity are maintained.*

Conclusions from EPA Report 1129

The EPA considered the proposal had the potential to directly and indirectly impact terrestrial fauna through the clearing of fauna habitat that included habitat for Carnaby's cockatoo, as well as fragmenting a large reserve that provides an east-west ecological linkage. The EPA also considered the proposal may increase the risk of injury, mortality and feral predation on native fauna and introduce light, noise and vibration impacts.

To manage these impacts, the EPA recommended:

- there is a limit on the clearing of Carnaby's cockatoo foraging habitat through the authorised extent in Schedule 1
- management of construction activities to minimise impacts to Carnaby's cockatoo and other terrestrial fauna (condition 9)
- implementation of measures to:
 - maintain the ecological linkage through BF 289 Ningana Bushland, including construction of green bridges (condition 6)
 - minimise indirect impacts following completion of the proposal through the preparation and implementation of environmental management plans (condition 7)
- implementation of offsets to counterbalance the significant residual impact to Carnaby's cockatoo foraging habitat, potential breeding habitat and potential breeding trees (condition 11).

Assessment of the requested change to conditions:

The EPA considers that the *Environment Factor Guideline – Terrestrial Fauna* (EPA 2016b) is the current environmental policy and guidance relevant to its assessment of the proposal for this factor.

The EPA considers that the biological surveys undertaken for the original assessment as supplemented by the information provided with the applications for amendment to the proposal and to the conditions, are adequate for this inquiry because of their currency and coverage of the proposal impacts.

The approved change to the proposal has resulted in an increase in the extent of clearing of Carnaby's cockatoo foraging habitat from 56.3 ha to 58.8 ha. During the course of its assessment of the approved change, the EPA considered that this increase would not have a significant residual impact in its own right, but that an offset should be required for it when combined with the significant residual impact of the original proposal, both for consistency, and to deal with the combined impact.

The total significant residual impact from the clearing of Carnaby's cockatoo foraging habitat that required an offset is therefore now 58.5 ha.

The EPA considers it appropriate to ensure the combined residual impact of the original proposal and the approved change to the proposal is offset using the framework of the existing offset conditions. The EPA has therefore recommended conditions 11—1 (3) and 11-8 (2) are amended to reflect the full extent of the residual impact of the now amended proposal to black cockatoo foraging habitat.

The EPA notes that there was no increase in the extent of impact to Carnaby's cockatoo potential breeding habitat or potential breeding trees, and therefore no change is needed for condition 11 – 1 (4) or 11-8 (3).

Having regard to the changed proposal and other relevant information, the EPA has recommended that conditions 11-1 and 11-8 (Offsets) are deleted and replaced with new conditions as set out in section 5 and Appendix 1.

5. Conclusions and Recommendations

Change to condition 11-1(2)

The proponent has requested the extent of the significant residual impact to Banksia woodlands of the SCP PEC be amended to reflect the full extent of clearing of the original proposal and the approved change. The EPA considers it is appropriate to amend the extent of the significant residual impact for which an offset is required to 9.7 ha.

Change to condition 11-1(3)

The proponent has requested the extent of the significant residual impact to Carnaby's cockatoo foraging habitat be amended to reflect the full extent of clearing of the original proposal and the approved change. The EPA considers it is appropriate to amend the extent of the significant residual impact for which an offset is required to 58.8 ha.

Change to condition 11-1(5)

The proponent has requested that the extent of the significant residual impact to BF 289 be specified to include the condition of vegetation. The EPA considers it is not necessary to specify the condition of the vegetation.

Change to condition 11-8(1)

The proponent has requested the extent of the significant residual impact to Banksia woodlands of the SCP PEC be amended to reflect the full extent of clearing of the original proposal and the approved change. The EPA considers it is appropriate to amend the extent of the significant residual impact for which an offset is required to 9.7 ha.

Change to condition 11-8(2)

The proponent has requested the extent of the significant residual impact to Carnaby's cockatoo foraging habitat be amended to reflect the full extent of clearing of the original proposal and the approved change. The EPA considers it is appropriate to amend the extent of the significant residual impact for which an offset is required to 58.8 ha.

Change to condition 11-8(4)

The proponent has requested that the extent of the significant residual impact to BF 289 be specified to include the condition of vegetation. The EPA considers it is not necessary to specify the condition of the vegetation.

Conclusions

In relation to the environmental factors, and considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA concludes that:

- there are no further changes to the conditions needed to deal with the issues associated with the proponent's request to change the conditions
- other than the approved change to the proposal, there is no significant new or additional information that changes the conclusions reached by the EPA under any of the relevant environmental factors since the proposal was assessed by the EPA in Report 1656 (November 2019)
- no new significant environmental factors have arisen since the EPA's original assessment of the proposal
- impacts to the key environmental factors are considered able to be managed to meet the EPA objectives for the key environmental factors, based on implementation of the requirements of the original conditions retained in MS 1129, and the imposition of the attached recommended condition changes (Appendix 1).

Recommendations

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment under s. 46 of the *Environmental Protection Act 1986*:

1. The environmental requirements of the original conditions of Ministerial Statement 1129 be retained for the proposal, subject to the condition amendments below to ensure offsets are provided for the significant residual impact of the original proposal when combined with the recent approved change.
2. It is appropriate to change implementation conditions 11-1 and 11-8 (Offsets) and replace them with new implementation conditions. After complying with s. 46(8) of the *Environmental Protection Act 1986*, the Minister may issue a statement of decision to change conditions 11-1 and 11-8 (Offsets) of Ministerial Statement 1129 in the manner provided for in the attached recommended statement (Appendix 1).

References

DBCA 2020, Priority Ecological Communities for Western Australia, Version 30, Species and Communities Program, The Department of Biodiversity, Conservation and Attractions, Perth WA.

EPA 2016a, *Environmental Factor Guideline – Flora and Vegetation*, Environmental Protection Authority, Perth, WA.

EPA 2016b, *Environmental Factor Guideline – Terrestrial Fauna*, Environmental Protection Authority, Perth, WA.

EPA 2020a, *Environmental Impact Assessment (Part IV Division 1 and 2) Procedures Manual*, Environmental Protection Authority, Perth, WA.

EPA 2020b, *Statement of Environmental Principles, Factors and Objectives*, Environmental Protection Authority, Perth, WA.

State of Western Australia 2016, *Western Australian Government Gazette*, No. 223, 13 December 2016.

Appendix 1: Identified Decision-Making Authorities and Recommended Environmental Conditions

Identified Decision-Making Authorities

The decision-making authorities (DMAs) in the table below have been identified for the purposes of s. 45 as applied by s. 46(8) of the *Environmental Protection Act 1986*.

Decision-Making Authority	Legislation (and Approval)
1. Minister for Aboriginal Affairs	<i>Aboriginal Heritage Act 1972</i> – s.18 disturbance of a site of Aboriginal heritage significance
2. Minister for Environment	<i>Biodiversity Conservation Act 2016</i> (taking of flora and fauna)
3. Minister for Water	<i>Rights in Water and Irrigation Act 1914</i> (licence to take water)
4. Minister for Planning	<i>Planning and Development Act 2005</i> (scheme amendments)
5. Minister for Transport	<i>Land Administration Act 1997</i> – s. 183 (authority to enter land and do anything that is authorised to be done under the rail enabling legislation (once enacted))
6. Chief Executive Officer, Department of Water and Environmental Regulation	<i>Environmental Protection Act 1986</i> – Part V (native vegetation clearing permit; crushing of excess limestone during construction; works approval and licence to construct and operate concrete batching plants)
7. Executive Director, Chief Dangerous Goods Officer, Department of Mines, Industry Regulation and Safety	<i>Dangerous Goods Safety Act 2004</i> (Storage and handling of dangerous goods)
8. Chair, Western Australian Planning Commission	<i>Planning and Development Act 2005</i> (Development applications for station precincts)
9. Chief Health Officer, Department of Health – Public Health Division	<i>Health Act 1911</i> (s.107 (2)(b)) Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 (Reg 4A Drains, sanitary conveniences, and any apparatus for the treatment of sewage intended to serve a building that is not a single dwelling or any other building that

	produces more than 540 litres of sewage per day)
10. Chief Executive Officer, City of Wanneroo	Health Act (Underground Water Supply) Regulation 1959 – Reg 11 Prior approval required for a well or other underground source of water supply

Note: In this instance, agreement is only required with DMAs 1 to 5 since these DMAs are Ministers.

Recommended Environmental Conditions

STATEMENT TO CHANGE THE IMPLEMENTATION CONDITIONS APPLYING TO A PROPOSAL

(Section 46 of the *Environmental Protection Act 1986*)

YANCHEP RAIL EXTENSION PART 2 – EGLINTON TO YANCHEP

Proposal: The proposal is to construct and operate a 7.2 kilometre extension to the existing Joondalup railway line from Eglinton Station to the suburb of Yanchep in the City of Wanneroo

Proponent: Public Transport Authority of Western Australia
Australian Business Number 61 850 109 576

Proponent Address: Public Transport Centre, West Parade
PERTH WA 6000

Report of the Environmental Protection Authority: 1693

Preceding Statement/s Relating to this Proposal: 1129

Pursuant to section 45 of the *Environmental Protection Act 1986*, as applied by section 46(8), it has been agreed that the implementation conditions set out in Ministerial Statement No. 1129, be changed as specified in this Statement.

Condition 11-1 of Ministerial Statement 1129 is deleted and replaced with:

11 Offsets

11-1 The proponent shall undertake offsets with the objective of counterbalancing the significant residual impact on the environmental values of:

- (1) 0.05 ha Threatened Ecological Community SCP 26a '*Melaleuca huegelii* – *Melaleuca systema* shrublands on limestone ridges (Gibson et al. 1994 type 26a)';
- (2) 9.7 ha of Banksia woodlands of the Swan Coastal Plain Priority Ecological Community;
- (3) 58.8 ha of Carnaby's cockatoo (*Calyptorhynchus latirostris*) foraging habitat, inclusive of 2.1 ha of Carnaby's cockatoo (*Calyptorhynchus latirostris*) potential breeding habitat;
- (4) 45 Carnaby's cockatoo (*Calyptorhynchus latirostris*) potential breeding trees; and

(5) 27.7 ha of Bush Forever site 289,

as a result of the implementation of the proposal, as defined in Table 2 of Schedule 1 and delineated by co-ordinates in Schedule 2.

Condition 11-8 of Ministerial Statement 1129 is deleted and replaced with:

11 Offsets

Land Acquisition and Rehabilitation Offsets Strategy

11-8 Within twelve (12) months of the publication of this Statement, or as otherwise agreed by the CEO, the proponent shall prepare and submit a Land Acquisition and Rehabilitation Offsets Strategy to the requirements of the CEO, with the environmental objective of counterbalancing the significant residual impact to:

- (1) 9.7 ha of Banksia woodlands of the Swan Coastal Plain Priority Ecological Community;
- (2) 58.8 ha of Carnaby's cockatoo (*Calyptorhynchus latirostris*) foraging habitat, inclusive of 2.1 ha of Carnaby's cockatoo (*Calyptorhynchus latirostris*) potential breeding habitat;
- (3) 45 Carnaby's cockatoo (*Calyptorhynchus latirostris*) potential breeding trees; and
- (4) 27.7 ha of Bush Forever site 289.

Acronym, Abbreviation or Term	Definition or Term
CEO	Chief Executive Officer of the Department of the Public Service of the State through which the <i>Environmental Protection Act 1986</i> is administered, or a delegate
ha	hectare