



Report and recommendations of the Environmental Protection Authority



**Subdivision of Lot 21 Alumina Road,
East Rockingham
- inquiry under s46(4) of the
Environmental Protection Act 1986
into whether or not the conditions
relating to the derived proposal
should be changed**

**Western Australian Land Authority
trading as LandCorp**

Report 1535

December 2014

ENVIRONMENTAL PROTECTION AUTHORITY
REPORT AND RECOMMENDATIONS TO THE MINISTER FOR
ENVIRONMENT

**SUBDIVISION OF LOT 21 ALUMINA ROAD, EAST ROCKINGHAM–
INQUIRY UNDER S46(4) OF THE *ENVIRONMENTAL PROTECTION ACT*
1986 INTO WHETHER OR NOT THE CONDITIONS RELATING TO THE
DERIVED PROPOSAL SHOULD BE CHANGED (ASSESSMENT NO. 2033)**

At its meeting of 11 December 2014 (Meeting No. 1071), the Environmental Protection Authority (EPA) resolved pursuant to section 39B of the *Environmental Protection Act 1986* (EP Act) to declare the proposal to subdivide Lot 21 Alumina Road, East Rockingham to be a derived proposal.

The EPA also resolved pursuant to section 46(4) of the EP Act to inquire into whether or not the implementation conditions relating to the derived proposal should be changed. The EPA also agreed that the report and recommendations be prepared and submitted to the Minister for Environment by the Chairman of the EPA under Delegation No. 25 dated 24 January 2012.

The following is the EPA's Report and Recommendations (No. **1535**) to the Minister for Environment pursuant to section 46(6) of the EP Act.

Background

The Rockingham Industrial Zone was referred to the EPA in 2004. The EPA assessed the proposal as a strategic proposal at the level of Public Environmental Review. The EPA published EPA Report 1390 in April 2011.

The Minister for Environment issued Ministerial Statement 863 in May 2011. The Statement provided for the implementation of future derived proposals, including the subdivision of the development area, and set out conditions that future derived proposals would be subject to.

With the benefit of hindsight, several of the conditions in Ministerial Statement 863 were drafted as though the Rockingham Industrial Zone strategic proposal, which is a non-statutory zone plan describing how an area of land could in the future be subdivided and developed, were a significant proposal. This is not ideal as, in practice, the conditions set out in the Ministerial

Statement should be readily applied to and implemented through the subsequent derived proposals. It can also confuse compliance and enforcement responsibilities.

Further, in the period since Ministerial Statement 863 was published, the proponent has prepared and had approved the Initial Conservation Area Management Plan required by condition 5-3, Water Management Strategy required by condition 6-1 and Offsets Package required by condition 7-1 of the Statement. It has also fenced the conservation area (condition 5-1) and cleared it of rubbish (condition 5-2).

It does not make sense to apply these same conditions requiring the preparation of the same plans to the derived proposal to subdivide Lot 21 Alumina Road, East Rockingham. What is important is that in implementing the derived proposal, the proponent also implements the approved management plans and strategies, maintains the established fence and keeps the conservation area free of rubbish.

To address the above, the EPA considers that several of the conditions as they apply to this derived proposal should be changed and has attached to this Report a draft Statement with recommended changes to the conditions.

Further, Schedule 1 of Ministerial Statement 863 established the key characteristics of future derived proposals. These included that the derived proposal include a Construction Environmental Management Plan (CEMP) and an Environmental Management Plan (EMP). Schedule 1 set out the matters to be addressed by the CEMP and the EMP.

As part of the proposal referred to the EPA, the proponent submitted a CEMP and an EMP that addressed the matters set out in Schedule 1. To ensure implementation of those parts of the CEMP and EMP that address the matters specified in Schedule 1 and provide for compliance and enforcement activities, the EPA has recommended two additional conditions. These conditions are included in the attached draft Statement.

EPA conclusion and recommendations

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment:

1. That it is appropriate to change the conditions that relate to the derived proposal as recommended in the attached Draft Statement.
2. That, after complying with section 46(8) of the *Environmental Protection Act 1986*, the Minister issues a statement of decision to change the conditions that relate to the derived proposal.

OEPAMINXXXXX

RECOMMENDED ENVIRONMENTAL CONDITIONS

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL
(PURSUANT TO THE PROVISIONS OF SECTION 46(4) OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

SUBDIVISION OF LOT 21 ALUMINA ROAD, EAST ROCKINGHAM

Proposal: Lot 21 Alumina Road, East Rockingham identified in plan of subdivision titled Subdivision Concept Plan Lot 21 Alumina Road, East Rockingham dated 31 January 2014.

Proponent: Western Australian Land Authority trading as LandCorp

Proponent Address: Level 6
Wesfarmers House
40 The Esplanade
Perth WA 6000

Inquiry into Conditions Assessment Number: XXXX

Report of the Environmental Protection Authority's Inquiry into Conditions: 1535

Strategic Proposal Statement Number: 863

By Section 45A Notice No. 2 dated ##, the Minister for Environment gave notice that the implementation agreement previously made and referred to in Statement No. 863 dated 26 May 2011 takes effect in relation to this derived proposal. The Minister for Environment also gave notice that conditions 1-1, 1-2, 3-1, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 5-1, 5-2, 5-4, 5-5, 5-6 and 6-2 of Statement 863 apply to this derived proposal subject to any change of the conditions made under sections 46 or 46C of the *Environmental Protection Act 1986*.

Pursuant to sections 46 of the *Environmental Protection Act 1986* implementation conditions 1-1, 1-2, 3-1, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 5-1, 5-2, 5-4, 5-5, 5-6 and 6-2 of in Statement No. 863 dated 26 May 2011, as applied only to this derived proposal are amended as follows:

1. Change to condition 5-1

Condition 5-1 of Ministerial Statement 863 is deleted and replaced with:

5-1 The proponent shall maintain the fence that it established around the Conservation Area, as delineated in Figure 1 and defined by the spatial coordinates provided in Table 2 of Statement 863, until such time as the Conservation Area is ceded to the Conservation Commission of Western Australia.

2. Change to condition 5-2

Condition 5-2 of Ministerial Statement 863 is deleted and replaced with:

5-2 The proponent shall maintain the Conservation Area, as delineated in Figure 1 and defined by the spatial coordinates provided in Table 2 of Statement 863, free of rubbish until such time as the land is ceded to the Conservation Commission of Western Australia.

3. Change to condition 5-4

Condition 5-4 of Ministerial Statement 863 is deleted and replaced with:

5-4 The proponent shall implement the Initial Conservation Area Management Plan that was approved by the CEO on 23 December 2013, or subsequent revisions as approved by the CEO, until the Conservation Area is ceded to the Conservation Commission of Western Australia.

4. Change to condition 5-5

Condition 5-5 of Ministerial Statement 863 is deleted and replaced with:

5-5 When the completion criteria in Section 5.3 of the Initial Conservation Area Management Plan referred to in condition 5-4 are met, or within two years of a written request from the Department of Parks and Wildlife, the proponent will arrange to cede the Conservation Area to the Conservation Commission of Western Australia.

5. Change to condition 6-2

Condition 6-2 of Ministerial Statement 863 is deleted and replaced with:

6-2 The proponent shall implement the Water Management Strategy that was approved by the CEO on 23 December 2013, or subsequent revisions as approved by the CEO.

6. Change to condition 7-2

Condition 7-2 of Ministerial Statement 863 is deleted and replaced with:

7-2 The proponent shall implement the Offsets Package that was approved by the CEO on 10 October 2013 within six months of the date of this statement, or at a time agreed by the CEO.

7. Add new condition

8-1 The Proponent shall implement the management action specified in sections 3.1, 3.4, 3.5, 4.2, 4.4 and 4.5 of the Construction Environmental Management Plan Version 7 dated 5 November 2013.

8. Add new condition

9-1 The Proponent shall implement the management actions specified in the sections 3.1, 3.3, 3.5 and 4.1 of the Environmental Management Plan Version 6 dated 14 October 2013.

[Signed xxx]

**HON Albert Jacob MLA
MINISTER FOR ENVIRONMENT; WATER**

Term or Phrase	Definition
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 his delegate.
EPA	Environmental Protection Authority
EP Act	<i>Environmental Protection Act 1986</i>