



Report and recommendations of the Environmental Protection Authority



Subdivision of Lot 48 Furnissdale Road, Furnissdale - inquiry under section 46 of the *Environmental Protection Act 1986* to amend Ministerial Statement 778

G-Daisy Pty Ltd

Report 1578

September 2016

ENVIRONMENTAL PROTECTION AUTHORITY
REPORT AND RECOMMENDATIONS TO THE MINISTER FOR
ENVIRONMENT

**SUBDIVISION OF LOT 48 FURNISSDALE ROAD, FURNISSDALE - INQUIRY
UNDER SECTION 46 OF THE *ENVIRONMENTAL PROTECTION ACT 1986*
TO AMEND MINISTERIAL STATEMENT 778**

The Minister for Environment has requested that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing the implementation conditions relating to the Subdivision of Lot 48 Furnissdale Road, Furnissdale proposal, in order to extend the 'Time Limit of Authorisation' for substantial commencement (condition 3).

The following is the EPA's Report and Recommendations (No. 1578) to the Minister pursuant to section 46(6) of the *Environmental Protection Act 1986*.

Background

The Subdivision of Lot 48 Furnissdale Road, Furnissdale proposal is to facilitate subdivision of 30 residential lots and one commercial lot. The Furnissdale townsite is approximately 70 kilometres (km) south of Perth and 5 km south-east of the Mandurah townsite.

The EPA assessed the proposal at the level of Environmental Protection Statement and released its assessment report (Report 1292) on 30 June 2008. The EPA identified the following key environmental factors relevant to the proposal:

- Wetlands

In applying the Environmental Assessment Guideline (EAG) 8 for *Environmental Principles, Factors and Objectives* (January 2015), these factors are now represented by:

- Flora and Vegetation
- Hydrological Processes
- Inland Waters Environmental Quality

The EPA concluded, based on the information provided, that while the proposal had the potential to have an effect on the environment, the proposal, as described, could be managed to meet the EPA's environmental objectives.

The then Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement 778 (23 December 2008).

Requested changes to conditions

Condition 3-1 of Ministerial Statement 778 requires the proponent to substantially commence the proposal within five years of the date of issue of the Statement (that is, before 23 December 2013).

The proposal has not yet substantially commenced. On 25 September 2015 the proponent for the proposal, G-Daisy Pty Ltd, requested an extension of the Time Limit of Authorisation for substantial commencement for a further five years, from the date of the amendment (that is 2015-2020).

In accordance with previous extension of time limit requests, the EPA considers that the start of the next five year period should commence from when the last Time Limit of Authorisation finished on 23 December 2013. The EPA recommends that the next five year period commences from this date to extend the 'Time Limit of Authorisation' to 23 December 2018.

Inquiry into the requested change to conditions

The EPA recommends imposing a substantial commencement timeframe implementation condition so that the conditions relating to a proposal can be reviewed within a reasonable timeframe to ensure:

- consideration is given to changes in the environment, scientific or technology knowledge arising since the initial assessment; and
- proposals are being implemented using best practice and contemporary methods so that the EPA objectives for the relevant key environmental factors are met.

The EPA has discretion as to how it conducts this inquiry. The currency of the initial assessment and issue of the Ministerial Statement (that is, when it was initially published) is also instructive in determining the extent and nature of the inquiry under s46. Ministerial Statement 778 was initially published on 23 December 2008.

Inquiry findings

In conducting this inquiry, the EPA reviewed the information provided by the proponent. The EPA's evaluation of the proponent information is provided in Table 1.

In considering whether it should recommend an extension of the Time Limit of Authorisation for the implementation of the proposal, the EPA also considered whether there was any new relevant information in relation to the assessment of the potential impacts of the proposal.

In the EPA's initial assessment of this proposal, impacts on Wetlands was a key environmental factor. In applying EAG 8, this factor is now represented as Flora and Vegetation, Hydrological Processes, and Inland Waters Environmental Quality.

The EPA's environmental objective for Flora and Vegetation is:

To maintain representation, diversity, viability and ecological function at the species, population and community level.

The EPA's environmental objective for Hydrological Processes is:

To maintain the hydrological regimes of groundwater and surface water so that existing and potential uses, including ecosystem maintenance, are protected.

The EPA's environmental objective for Inland Waters Environmental Quality is:

To maintain the quality of groundwater and surface water, sediment and biota so that the environmental values, both ecological and social, are protected.

The EPA's inquiry findings show that the environmental conditions related to the wetland has not changed since the proposal was first assessed.

In consideration of the information provided by the proponent and relevant EPA policies and guidelines, the EPA considers that:

- There is no significant new or additional information that justifies the reassessment of the issues raised by the proposal;
- There has been no new significant change in the relevant environmental factors since the proposal was assessed by the EPA in Report 1292; and
- No new significant environmental factors have arisen since the EPA's assessment of the proposal.

The EPA is therefore satisfied that the following existing implementation conditions will continue to address the relevant environmental factors, and mitigate the potential impacts of the proposal:

- Condition 4 - Clearing of native vegetation at Lot 48 Furnissdale Road, Furnissdale.

In the assessment of the above change to Statement 778, the EPA identified that the agencies in Condition 4-2 are required to be updated. The EPA considers Condition 4-2 should be changed to reflect change in agency names.

Relevant EPA policies and guidelines

The EPA in making this recommendation and providing its advice to the Minister, has given due consideration to the relevant published EPA policies and guidelines (see Table 3), noting that other published policies and guidelines were considered but determined not to be relevant.

The following relevant EPA process policies and guidelines were considered:

- *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2012*;
- EAG 1 for *Defining the key characteristics of a Proposal*, 2012;
- EAG 8 for *Environmental principles, factors and objectives*, 2015;
- EAG 9 for the *Application of a significance framework in the environmental impact assessment process*, 2015;
- EAG 11 for *Recommending environmental conditions*, 2015; and
- Environmental Protection Bulletin (EPB No. 11) for *Consultation on Conditions Recommended by the EPA*, 2010.

The following policies and guidelines relevant to environmental factors were considered:

a) Flora and Vegetation

Position Statement 2 – Environmental Protection of Native Vegetation in WA, 2000

The objective of the policy is to ensure no known species of plant is caused to become extinct as a consequence of the changes to the proposal and the risks to threatened species are considered to be acceptable; no association or community of indigenous plants ceases to exist as a result of the changes to the proposal; and the onsite and offsite impacts of the changes to the proposal are identified and the proponent demonstrates that these impacts can be managed.

Position Statement 3 – Terrestrial Biological Surveys as an Element of Biodiversity Protection, 2002

The objective of this policy is that Proponents shall demonstrate that all reasonable measures have been undertaken to avoid impacts on biodiversity. Where some impact on biodiversity cannot be avoided the proponent shall demonstrate that the impact will not result in unacceptable loss.

Position Statement 4 – Environmental Protection of Wetlands, 2004

This policy provides the public and other key stakeholders with a summary of the aspects regarding environmental protection of wetlands in Western Australia that the EPA considers to be important in guiding its decisions and advice to government on matters of environmental protection.

b) Hydrological Processes

Position Statement 4 – Environmental Protection of Wetlands, 2004

This policy provides the public and other key stakeholders with a summary of the aspects regarding environmental protection of wetlands in Western Australia that the EPA considers to be important in guiding its decisions and advice to government on matters of environmental protection.

c) Inland Waters Environmental Quality

Position Statement 4 – Environmental Protection of Wetlands, 2004

This policy provides the public and other key stakeholders with a summary of the aspects regarding environmental protection of wetlands in Western Australia that the EPA considers to be important in guiding its decisions and advice to government on matters of environmental protection.

EPA conclusions and recommendations

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

1. Condition 3 of Ministerial Statement 778 is amended to allow for the timeframe for substantial commencement of the Subdivision of Lot 48 Furnissdale Road, Furnissdale proposal to be extended by further five years, to 23 December 2018;
2. Condition 4-2 of Ministerial Statement 778 is amended to reflect updated agency names; and
3. If the Minister agrees with the above recommendations, and after consulting relevant decision making authorities, the Minister issues a statement of decision to change Condition 3 and Condition 4-2 of Statement 778 in the manner provided for in the attached recommended Statement (attachment 1).

Table 1 – EPA’s evaluation of proponent information

Factor in EPA Report 1292	New Factor (EAG 8)	EPA Report, and Proponent’s response to change to condition relevant to environmental factors	EPA Evaluation
Wetlands	Flora and Vegetation	<p><i>EPA Report 1292</i> “The implementation of this proposal will result in the loss of 0.9 hectares of the Conservation Category Wetland, which equates to 0.3% of the entire 281 hectares Conservation Category Wetland”.</p> <p><i>Proponent response relating to change to condition</i> The proponent considers that the environmental conditions of the site have not changed since the proposal was assessed. The proponent also considered that the extension of the timeframe for the implementation would allow the satisfaction of offsets related to Condition 4.</p>	The EPA concurs with the proponent’s response that there has been no significant changes to this key environmental factor, and is satisfied that existing implementation condition 4 will continue to address the relevant environmental factor, and mitigate the potential impacts of the proposal.
	Hydrological Processes		
	Inland Waters Environmental Quality		

Table 2 – s46 Assessment of proposed changes to implementation conditions

Condition	Proposed Change	Assessment and Evaluation of Proposed Changes
Conditions 1 and 2	No proposed change	N/A
Condition 3	Amend condition to allow additional 5 years of authorisation for substantial commencement	<p>This is a standard condition that requires the implementation of the proposal to substantially commence within five years of the date of authorisation. The change to this condition is to allow an additional five years for the implementation of the proposal to substantially commence taking in to consideration that all other conditions on Statement 778 are still able to achieve the EPA’s objectives.</p> <p>3 Time Limit for Proposal Implementation</p> <p>3-1 The proponent shall not commence implementation of the proposal after 23 December 2018, and any commencement prior to this date must be substantial.</p> <p>3-2 Any commencement of implementation of the proposal, on or before 23 December 2018, must be demonstrated as substantial by providing the CEO* with written evidence, on or before 23 December 2018.</p> <p>*"CEO" means the Chief Executive Officer of the Department of the Public Service which is responsible for the administration of section 48 of the Environmental Protection Act 1986, or his delegate.</p>
Condition 4	Amend condition to reflect change in agency names	<p>This condition relates to an offset for the clearing of native vegetation of a wetland.</p> <p>4 Clearing of native vegetation at Lot 48 Furnissdale Road, Furnissdale</p> <p>4-2 The ‘Offset Implementation Strategy’ is to detail an offset that will provide an amount of funds to the Department of Parks and Wildlife towards future conservation purposes to the satisfaction and requirements of the Office of the Environmental Protection Authority, on advice of the Department of Water. The amount of funds should be reflective of the environmental values of the Conservation Category Wetland (and its buffer) contained</p>

		<p>within Lot 48 Furnissdale Road, Furnissdale that will be lost with the implementation of the proposal. It should be calculated based upon, as a minimum, the area of the Conservation Wetland and a nominal buffer of 50 metres and be consistent with the purpose and principles of the Environmental Protection Authority's Position Statement No. 9 <i>Environmental Offsets</i>.</p>
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Table 3 - EPA Policies and Guidelines relevant to the process

Process/ Factor	Policies and guidelines considered relevant
Change to conditions	<ul style="list-style-type: none"> • <i>Environmental Impact Assessment (Part IV Division 1 and 2) Administrative Procedures 2012</i> • <i>Environmental Assessment Guideline 1 (EAG 1) Defining the Key Characteristics of a proposal, 2012</i> • <i>EAG 8 for Environmental principles, factors and objectives, 2015</i> • <i>EAG 9 for Application of a significance framework in the environmental impact assessment process, 2015</i> • <i>EAG 11 for Recommending environmental conditions, 2015</i> • <i>Consultation on Conditions Recommended by the EPA (Environmental Protection Bulletin No.11), 2012</i>
Flora and Vegetation	<ul style="list-style-type: none"> • <i>Position Statement 2 – Environmental Protection of Native Vegetation in WA, 2000</i> • <i>Position Statement 3 – Terrestrial Biological Surveys as an Element of Biodiversity Protection, 2002</i> • <i>Position Statement 4 – Environmental Protection of Wetlands, 2004</i>
Hydrological Processes	<ul style="list-style-type: none"> • <i>Position Statement 4 – Environmental Protection of Wetlands, 2004</i>
Inland Waters Environmental Quality	<ul style="list-style-type: none"> • <i>Position Statement 4 – Environmental Protection of Wetlands, 2004</i>

Statement No. xxx

RECOMMENDED ENVIRONMENTAL CONDITIONS

**STATEMENT TO CHANGE THE IMPLEMENTATION CONDITIONS APPLYING TO
A PROPOSAL
(Section 46 of the *Environmental Protection Act 1986*)**

SUBDIVISION OF LOT 48 FURNISSDALE ROAD, FURNISSDALE

Proposal: Subdivision of Lot 48 Furnissdale Road, Furnissdale

Proponent: G-Daisy Pty Ltd
Australian Company Number 116 495 562

Proponent Address: 66 Francis Street
NORTHBRIDGE WA 6003

Report of the Environmental Protection Authority: 1578

Preceding Statement/s Relating to this Proposal: 778

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. 778, be changed as specified in this Statement.

Amendment of Condition 3

Condition 3 of Ministerial Statement 778 is deleted and replaced with:

3 Time Limit for Proposal Implementation

- 3-1 The proponent shall not commence implementation of the proposal after 23 December 2018, and any commencement prior to this date must be substantial.
- 3-2 Any commencement of implementation of the proposal, on or before 23 December 2018, must be demonstrated as substantial by providing the CEO* with written evidence, on or before 23 December 2018.

*"CEO" means the Chief Executive Officer of the Department of the Public Service which is responsible for the administration of section 48 of the *Environmental Protection Act 1986*, or his delegate.

Amendment of Condition 4

Condition 4 of Ministerial Statement 778 is deleted and replaced with:

4 Clearing of native vegetation at Lot 48 Furnissdale Road, Furnissdale

4-2 The 'Offset Implementation Strategy' is to detail an offset that will provide an amount of funds to the Department of Parks and Wildlife towards future conservation purposes to the satisfaction and requirements of the Office of the Environmental Protection Authority, on advice of the Department of Water. The amount of funds should be reflective of the environmental values of the Conservation Category Wetland (and its buffer) contained within Lot 48 Furnissdale Road, Furnissdale that will be lost with the implementation of the proposal. It should be calculated based upon, as a minimum, the area of the Conservation Wetland and a nominal buffer of 50 metres and be consistent with the purpose and principles of the Environmental Protection Authority's Position Statement No. 9 *Environmental Offsets*.

Albert Jacob MLA

MINISTER FOR ENVIRONMENT; HERITAGE