



## State Administrative Tribunal Reconsideration

### Responsible Authority Report (Regulation 12)

<b>Property Location:</b>	Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, Saint Ronans
<b>Application Details:</b>	Construction and use of Allawuna Farm for the purposes of a Class II landfill.
<b>DAP Name:</b>	Wheatbelt Joint Development Assessment Panel
<b>Applicant:</b>	SITA Australia Pty Ltd
<b>Owner:</b>	Robert Henry Chester
<b>LG Reference:</b>	P899
<b>Responsible Authority:</b>	Shire of York
<b>Authorising Officer:</b>	Graeme Simpson, A/CEO, Shire of York
<b>Department of Planning File No:</b>	DP/14/00039
<b>Report Date:</b>	17 August 2015
<b>Application Receipt Date:</b>	17 December 2013
<b>Application Process Days:</b>	In appeal proceedings with State Administrative Tribunal
<b>Attachment(s):</b>	1: Site Plans 2: Supplementary Report 3: Line of Sight Drawing 4: Fire Management Plan 5: Schedule of Public Submissions 6: Agency Submissions

#### Officer Recommendation:

That the Wheatbelt Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 127 of 2014, resolves to:

**Reaffirm** its decision dated 14 April 2014 and **refuse** DAP Application reference DP/14/00039 and amended plans D001 to D012 in accordance with Clause 8.6 of the Shire of York's Town Planning Scheme No. 2, for the following reasons:

#### Reasons

1. The proposed landfill is not permitted in the General Agriculture zone given that the proposal is not consistent with the objectives and purpose of the zone in accordance with Clause 3.2.4(c) of the York Town Planning Scheme No. 2.
2. The proposed landfill presents potential for incremental, permanent loss of agricultural land, as a result of a temporary land use, in a district where expansion of agricultural land is already constrained by salinity and vegetation protection and is not consistent with Clause 4.15.1(a) of the York Town Planning Scheme No. 2.



3. The applicant has failed to demonstrate that the proposed landfill will be of benefit to the district, which is inconsistent with Clause 4.15.1(b) of the York Town Planning Scheme No. 2.
4. The application does not include sufficient information to demonstrate that visual impacts will not affect the amenity of the locality and residents, as required by Objective (b) (Clause 1.7) and Clause 8.5 (i), (j) and (n) of the York Town Planning Scheme No. 2.
5. The proposed landfill is ad-hoc and is not consistent with the requirements of orderly and proper planning, as required by Clause 8.5(b) of the York Town Planning Scheme No.2.

### **Alternative Recommendation**

Should the Officer Recommendation not be carried, the following conditions should be placed on any approval.

#### Time limited approval

1. This approval will expire 20 years following the date of issue.

#### Substantial commencement

2. If a works approval has not been issued by the Department of Environmental Regulation (**DER**) within one year from the date of this approval, then this approval shall lapse and be of no further effect.
3. If the development the subject of this approval is not substantially commenced within a period of one year from date of issue of a works approval by the DER, then this approval shall lapse and be of no further effect.

#### Relocation of stormwater dam

4. The relocation of the stormwater dam to off-stream from the existing ephemeral creek line, in consultation with and to the satisfaction of the Department of Water.

#### Reporting Requirements

5. Prior to the commencement of operations under this approval, the applicant is to engage an independent and suitably qualified person(s) endorsed by the Shire of York prior to appointment, to audit the construction and operation of the project, including the following requirements:
  - (a) consultation with the relevant agencies;
  - (b) assessing the performance of the project and assessing whether it is complying with the relevant requirements in this approval and any relevant approved plan;
  - (c) reviewing the adequacy of any plans or programs required under this approval; and, where appropriate -



- (d) recommending measures or actions to improve the environmental performance of the project, and/or any plan or program required under this approval.
6. Within 6 weeks of the completion of the audit required under the preceding condition, or as otherwise agreed by the Shire of York (**Shire**), the Applicant is to submit a copy of the audit report to the Shire, together with the Applicant's response to any recommendations contained in the audit report.
7. SITA and the owner(s) of the site are to provide to the Shire for its records:
  - (a) A copy of the annual monitoring report containing monitoring data required by the DER by 31 July in each year, or within two weeks of the completion of the report, whichever occurs earlier;
  - (b) As soon as practical following completion of Cell 1 and similarly following completion of each subsequent cell, certification from the DER that construction of the landfill, support infrastructure and external site works, including any road works, have been completed in accordance with the design and specifications approved by the DER; and
  - (c) An annual report that includes:
    - (i) the progress of the landfill activity;
    - (ii) surface water capture and reuse;
    - (iii) progress and landfill/recycling;
    - (iv) contingency actions and outcomes; and
    - (v) copies of any community complaints and responses.

#### Consultation and Reporting Strategy

8. Prior to commencing development of the site or filling activities, SITA shall prepare, in consultation with the Shire, a Consultation and Reporting Strategy to ensure a high level of on-going consultation and interaction with the Council/Shire and the community. The Strategy shall provide for:
  - a. Establishment of a Community Reference Group (CRG) comprising representatives of SITA, the Council/Shire and the community. The CRG will then be the principal point of contact and reporting to the Council/Shire and community in relation to the construction of the landfill and subsequent stages, the operation of the landfill and tendering of periodic monitoring reports. The CRG shall meet monthly initially, extending to quarterly or such longer period as determined appropriate by the CRG, once Stage 1 construction is completed and the landfill has been operating successfully for a minimum of six months; and
  - b. Periodic monitoring reports to the DER and the Shire via the CRG (suitable for posting on websites).
9. SITA must provide a copy of the Consultation and Reporting Strategy to the Shire (suitable for posting on the Shire's website) and post a copy on SITA's website prior to commencing development of the site or filling activities.
10. SITA must post copies of all reporting to the CRG on SITA's website within seven (7) days of provision to the Shire.



### Fire Management

11. Prior to commencement of any filling activities, a Fire Management Plan is to be prepared and approved by the Shire acting in consultation with the Fire and Emergency Services Authority (FESA). The Plan is to address the prevention of, and response to, both fires potentially originating within the facility and fires potentially originating outside, and from in the adjoining public and state land. Upon approval, a copy of the approved Plan is to be provided to the Shire of York and the Fire Contingency Plan is to be implemented in full and maintained in implementation until closure and during rehabilitation of the facility.

### Water Management

12. Prior to commencing construction of the landfill, SITA shall prepare a Water Management Plan in consultation with the DER. The Plan shall address requirements for both the constructional and operational phases of the landfill.

13. SITA shall provide a copy of the Water Management Plan to the Shire (suitable for posting on the Shire's website) and post a copy on SITA's website, prior to commencing construction of the landfill.

14. The landfill is at all times to be operated in accordance with the Water Management Plan.

### Landfill Construction Management Plan

15. Prior to commencing construction of the landfill, SITA shall prepare a Landfill Construction Management Plan in consultation with and to the satisfaction of the Shire to ensure that the off-site impacts of construction of the landfill and subsequent stages are minimised as far as reasonably practicable. The Plan shall address the primary aspects of the construction of the landfill including:

- a. staging of construction of the landfill and support infrastructure;
- b. internal and external road works;
- c. cell staging; and
- d. measures to be implemented to reduce dust, noise and other construction impacts, including compliance with all relevant regulatory requirements.

16. SITA is to provide a copy of the Landfill Construction Management Plan to the Shire (suitable for posting on the Shire's website) and post a copy on SITA's website prior to commencing construction of the landfill.

17. Construction of the landfill works is at all times to comply with the Landfill Management Plan, at all stages of development.

### Landfill Operational Management Plan



18. Prior to commencing operation of the landfill, SITA shall prepare a Landfill Operational Management Plan in consultation with and to the satisfaction of the Shire to ensure that the off-site impacts of operation of the landfill and subsequent stages are minimised as far as reasonably practicable. The Plan shall address the primary aspects of the operation of the landfill including:
- a. Landfill operating hours;
  - b. Receipt, vetting and recording of incoming waste;
  - c. Waste placement and cover procedures;
  - d. Leachate management;
  - e. Gas extraction and management;
  - f. Odour, noise, litter and vermin management;
  - g. Groundwater and surface monitoring and reporting;
  - h. Fire Management;
  - i. Complaints register procedures;
  - j. Cell capping and rehabilitation; and
  - k. Borrow pit and dam rehabilitation.
19. SITA shall provide a copy of the Landfill Operational Management Plan to the Shire (suitable for posting on the Shire's website) and post a copy on SITA's website, prior to commencing operation of the landfill.
20. The operation of the landfill shall at all times comply with the Landfill Operational Management Plan.

#### Waste Haulage Vehicle Management Plan

21. Prior to commencing operation of the landfill, SITA shall prepare a Waste Haulage Vehicle Management Plan in consultation with the Shire and Main Roads WA, and to the satisfaction of the Shire, to ensure that the effects of increased heavy haulage vehicles on Great Southern Highway are minimised as far as reasonably practicable. The Plan will address the primary aspects of the haulage operation as they impact the Great Southern Highway, and motorists on the Highway including:
- a. Vehicle and trailer type, size and general specifications including colour schemes;
  - b. Haulage vehicle operating schedules and turnaround times;
  - c. Driver rest and fatigue management procedures; and
  - d. Vehicle litter clean down procedures and overall cleaning schedules.
22. SITA shall provide a copy of the Waste Haulage Vehicle Management Plan to the Shire (suitable for posting on the Shire's website prior to commencing operation of the landfill) and post a copy on SITA's website.
23. The Applicant and the owner(s) shall ensure that waste haulage vehicles are managed at all times strictly in accordance with the Waste Haulage Vehicle Management Plan.

#### General



24. Construction works involved with the development may only be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday and 8.00 am to 1.00 pm on Saturday with no construction works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
25. Approval for any effluent disposal systems to be located at the facility shall be sought from the Shire of York through the lodgement of an 'Application to Construct or Install an Apparatus for the Treatment of Sewage' and the landfill use is not to commence until a Shire approval has been issued.

#### Amenity

26. Prior to works associated with the development commencing, the Applicant is to give to owners of property within a 1km radius of the boundaries of the property on which the landfill is located, written notice of the intention to commence works. The required notice must be accompanied by details of the proposed works and must be given to neighbouring owners within seven (7) days prior to the commencement of any proposed excavation and/or structural works. A copy of the notice is to be provided at the same time to the Shire.

#### Landscaping

27. The operator and the owners of the property on which the landfill is situated are to ensure that landscaping and revegetation screens the operational parts of the landfill from neighbouring properties, from Mount Observation National Park, and from the Great Southern Highway at all times, as much as is practicable, and to the satisfaction of the Shire. Any landscape planting must utilise species indigenous to the area.
28. The Applicant is to provide a landscape plan to the satisfaction of the Shire detailing the landscaping required by the preceding condition, and is to be provided and approved by the Shire prior to the commencement of works on the site.

#### Revegetation plan

29. Prior to clearing of any trees or vegetation, a Revegetation Plan for the Thirteen Mile Brook within the boundary of the subject land is to be prepared and approved by the Shire. The Plan is to address the revegetation of disturbed areas of the brook with native species. The Revegetation Plan is to be implemented in full and maintained in implementation until closure and during rehabilitation of the facility.

#### Lighting

30. The applicant shall ensure that the lighting associated with the project is mounted, screened and directed in such a manner that it is not directed towards surrounding properties or the public road network, and in any event



does not create a nuisance to surrounding properties, or users of the public road network.

31. Security lighting shall be limited to the main landfill infrastructure area comprising parking and holding areas and administrative buildings and shall be environmental down lighting to minimise any light dispersal beyond the lit area.

#### Signage

32. The applicant shall not install any advertising sign on site without the written approval of the Shire.

#### Access

33. Access to the site shall be from the Great Southern Highway only and the proposed access works are to comply with Main Roads WA standards, and are to be to the satisfaction of the Shire in conferral with Main Roads WA.
34. Prior to commencement of landfilling operations, the road access from the Great Southern Highway is to be upgraded in accordance with Main Roads WA standards, and in accordance with plans approved by the Shire in conferral with Main Roads WA.
35. As a minimal requirement for the satisfaction of conditions 33 and 34, the Applicant is to upgrade the intersection of Great Southern Highway and the Allawuna Farm entry road at its own cost to provide a through lane for eastbound vehicles and an acceleration lane for road trains exiting the site towards Perth. The intersection is to be designed and constructed in accordance with Main Roads WA standards, and to the approval of the Shire in conferral with MRWA prior to construction of the intersection commencing.
36. The internal access roads shall be constructed and maintained to a standard to ensure safety and minimise dust emissions and erosion from machinery and traffic to the satisfaction of the Shire of York.
37. Without detracting from the generality of condition 36, and as an indication of the minimum standard required by condition 36, bitumen sealing and drainage of all landfill access roads is required. Roadways providing access within the operational landfill area and to the stormwater dam may not be required to be sealed, but measures must be taken to avoid dust emissions affecting neighbouring properties. Bituminised access roads are not required to be kerbed if the operator of the landfill can satisfy the Shire that the roads will be maintained in good condition for the life of the landfill.

#### Gates and Fencing

38. Lockable gates are to be installed at all entries to the facility and are to be locked at all times when the facility is not manned.



39. All boundary fencing around the subject property is to be to the standard of a sufficient rural fence, as defined by the Shire's local law relating to fencing, and must be installed prior to the commencement of operations.
40. Prior to the commencement of operation of each landfill cell/stage at the facility, a 2 metre high temporary mesh fence must be erected as shown on the site layout plan, or otherwise located, so as to act as a litter trap for waste items being disposed of in the landfill cell in question and to prevent access by feral animals and pests. All such fencing must be removed at the completion of the landfill.

#### Fill and Stockpiling

41. During construction works, all soil is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land or result in pollution of a waterway.
42. All clean fill material brought onto the site must comply with the Works Approval issued by the Department of Environmental Regulation.

#### Installation of Liner

43. An independent third-party suitably qualified consultant with experience with landfill liners, endorsed by the Shire, is to be appointed to verify that the works have been carried out to the agreed standards. The duties of the consultant include inspections, verifications, audits and evaluation of materials and workmanship, provision of advice on installation, testing, repair and covering of the liner, and issuing a final report documenting the quality of the constructed facility.

#### Operation of the facility

44. The hours of operation for entry to the facility for the purposes of disposing waste or any other activity related to the waste disposal operation shall be Monday to Friday 6 am to 5 pm and Saturdays 6 am to 4 pm (excluding public holidays).
45. The facility is to be confined to that part of subject property, as identified in the approved plans.
46. The facility is not to be used by the general public for the disposal of domestic waste. No public access being permitted to the landfill.
47. The balance of Allawuna Farm is to be used for agricultural purposes.
48. Only waste in conformity with the requirements of Class II, Category 64 Landfill, as defined under the Department of Environmental Regulation's Landfill Waste Classification and Waste Definitions 1996 (as amended), is to be disposed at the facility.





49. Only waste in conformity with the requirements of Class II, Category 64 Landfill, as defined under the Department of Environmental Regulation's Landfill Waste Classification and Waste Definitions 1996 (as amended), is permitted to be received by the facility.
50. Measures are to be taken at all times to minimise the amount of dust emission associated with the waste disposal site and associated with trucks transporting materials to or from the facility. Without limiting the generality of the condition, such measures are to include the covering of all truck loads entering or leaving the site.
51. The facility must be maintained in a tidy condition at all times and any landfill and waste disposal items must be contained within the 2 metre temporary mesh fence. If any materials leave the approved landfill area, they must be collected and disposed of by the applicant or the owners of the site within seven (7) days.
52. The operator and the owners of the site are to ensure that any windblown waste is removed from the premises, fences and roads, and any windblown waste emanating from the premises is collected and removed on a weekly basis or more frequently when directed by the Shire.
53. Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.
54. Prime movers used for the movement of the trailers may show markings of the haulage contractor provided that such markings do not indicate the source or nature of the materials being hauled (other than to comply with any legal requirements, for example over length).
55. Erosion and sediment controls are to be monitored and maintained until the site is fully stabilised and landscaped.
56. Dust suppression and erosion and sediment control measures must be maintained around the stockpile to minimise the movement of soil off site.
57. All chemicals, fuels and oils used on site are to be stored in appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund, unless double-skinned tanks are used. Any bunds are to be designed and installed in accordance with the requirements of all relevant Australian Standards, and the requirements of the Department of Environmental Regulation and to the approval of the Shire.

#### Access to Information

58. In addition to any other requirement of the conditions in regard to publication of material on SITA's website, SITA and any successor operator is to make the following information publicly available on its website as it is progressively required by the approval:



- (a) a copy of all current statutory approvals;
- (b) a copy of the current plans and programs required under this approval;
- (c) a summary of the monitoring results of the Project, which have been reported in accordance with the various plans and programs approved under the conditions of this approval;
- (d) a complaints register, which is to be updated on a monthly basis;
- (e) a copy of the Annual Reviews (over the last 5 years);
- (f) a copy of any Independent Environmental Audit, and the applicant's response to the recommendations in any audit; and
- (g) any other matter required by the Shire.

**Public Liability**

59. Prior to the commencement of works, SITA is to submit to the Shire evidence of currency of public liability insurance to the value of \$20 million for landfill operations. The issue of approval shall not, in any way render the Shire liable for any damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of SITA and the owners of the site.

**Cash bond**

60. Prior to the commencement of operation of the facility, the applicant shall provide a cash bond of \$700,000 (\$10,000 per hectare disturbed) to the Shire as a performance guarantee against the satisfactory completion of the rehabilitation of the site, such funds to be held in an interest bearing account, with the interest forming part of the bond.

61. The performance guarantee will be refunded at a rate of 50% following completion of the final stage of rehabilitation works and 50% at the conclusion of the agreed monitoring period. Any such bond is to be accompanied by a bonding agreement and written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part thereof as appropriate, for any costs to the respondent in completing and/or rectifying the outstanding works.

**Background:**

Insert Property Address:	Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, Saint Ronans
Insert Zoning	MRS: N/A
	TPS: General Agriculture
Insert Use Class:	Use Not Listed
Insert Strategy Policy:	Shire of York Local Planning Strategy
Insert Development Scheme:	Shire of York Town Planning Scheme No. 2
Insert Lot Size:	1512.7 hectares (total area of lots combined)
Insert Existing Land Use:	Farming – Cropping
Value of Development:	\$46 million



## Application History

### *Original Application*

- Application lodged on 17 December 2013 by SITA Australia Pty Ltd to construct and use a portion of Allawuna Farm as a Class II Landfill.
- Application proposed a 52 hectare landfill with a nominal life of 37 years based on between 150,000 and 250,000 tonnes of waste per annum, accommodating 11.1 million cubic metres (or 7.4 million tonnes based on 200,000 tonnes per annum) of waste. When completed the landfill would have been 25 metres deep and would have had a finished height of 354m AHD (approximately 20 metres above existing natural ground). It was proposed to develop the landfill in two major stages comprising 11 cells that will each have a life of 2 to 3 years.
- The application was advertised from 17 February to 15 March 2014.
- A total of 211 submissions were received with 210 objecting to the proposal. The supporting submission was from the landowner. A petition containing 1,372 signatures was received. 18 submissions from government and service agencies were also received.
- In authorising the submission of the RAR, the Shire of York unanimously supported the Officer's Recommendation to refuse the application.
- The original application was refused by the Wheatbelt JDAP on 14 April 2014.
- SITA Australia Pty Ltd lodged an appeal against the decision with the State Administrative Tribunal on 24 April 2014 (DR 127 of 2014).
- Numerous Directions Hearings and Mediation Sessions have been held over the past 12 months, resulting in the preparation of an amended application by the Applicant.
- In delivering its decision on the proposed modified application, the State Administrative Tribunal, then also invited the Wheatbelt JDAP to reconsider its decision under section 31 of the *State Administrative Tribunal Act 2014* by no later than 21 August 2015.

### **Details: Outline of development application**

The Applicant proposes to construct and use a portion of Allawuna Farm as a Class II Landfill, catering for wastes generated from Perth waste collection services.

Allawuna Farm is located approximately 18 kilometres from the York town centre in the locality of Saint Ronans and has an area of 1,512.7 hectares. The property has been historically used for cropping and grazing.

The amended application responds to significant additional environmental investigations undertaken through the SAT appeal process to meet the requirements of the Department of Environmental Regulation (which will separately consider applications for Works Approval and a License to operate under the Environmental Protection Act 1986).

The amended application (included in Attachment 1) proposes:

- Reduction in the area of the landfill footprint by approximately 31% from 52ha to 36ha;
- Reduction in the maximum height of waste deposited by 4.5m to 350.5 AHD;



- Reduction in the overall volume of waste placed by approximately 46% from approximately 11.1 million cubic metres of waste (10.1 million tonnes) to 5.1 million cubic metres (4.6 million tonnes);
- Reduction in the nominal life of the landfill from 37 years to approximately 20 years, based on forecast annual tonnages of between 150,000 and 250,000 tonnes of waste per annum;
- Raises the floor of the landfill to ensure a minimum clearance of at least 2m between the base of the landfill and the maximum estimated winter groundwater level;
- Development of three (3) borrow areas comprising a total of approximately 20ha commencing from approximately year 10 onwards; and
- Reduction in the size and extent of the leachate ponds and stormwater dam required.

The amended application is supported by:

- A summary report outlining key changes and reporting on discussions with local businesses regarding local contracts and employment opportunities (Attachment 2);
- Line of Sight drawings from Mount Observation (Attachment 3);
- A Fire Management Plan (Attachment 4).

Additional environmental investigations were not submitted as part of the amended development application, however are publically available through a Works Approval application made to the Department of Environmental Regulation, published on the Department of Environmental Regulation. Being publically available, these documents have informed part of the assessment of the development application.

### ***Zoning***

The subject site is zoned 'General Agriculture' under the provisions of the York Town Planning Scheme No. 2 (the Scheme).

### ***Surrounding Land Uses***

The subject site adjoins the Mount Observation National Park to the west and privately owned broad hectare agricultural properties on all other boundaries. The surrounds, and distance to nearest residences and the town of York, are shown in Figures 1 and 2.

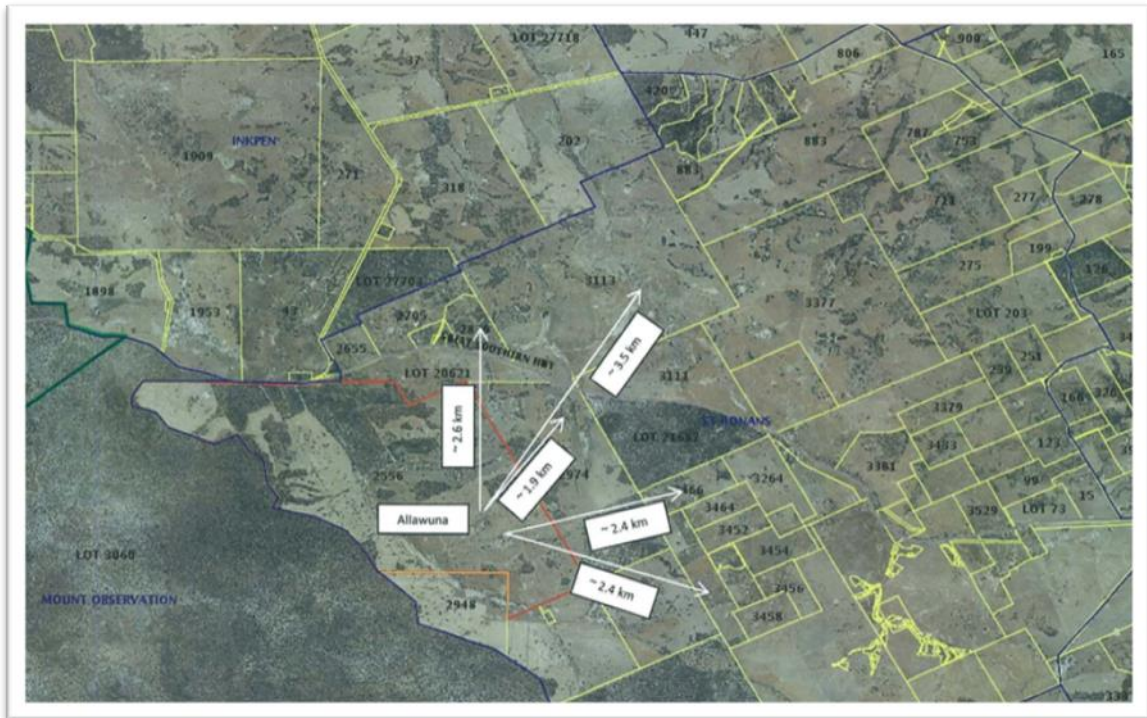


Figure 1: Locality Plan with approximate distances to nearest residences



Figure 2: Locality Plan showing distance to York townsite (approx. 18 kms)



## Legislation & policy:

### Legislation

- *State Administrative Tribunals Act 2004*: The Respondent, the Wheatbelt JDAP has been invited by the State Administrative Tribunal to reconsider its decision by 15 July 2105 in accordance with the provisions of Section 31 of the Act.
- *Planning and Development Act 2005*: Part 5 of the Act provides a statutory head of power for the Shire of York to prepare, adopt and implement a local planning scheme.
- *Planning and Development (Development Assessment Panels) Regulations 2011*: the value of the development exceeds \$7 million and is therefore a 'mandatory' DAP application where the Wheatbelt Joint Development Assessment Panel becomes the determining authority.

The DAP Secretariat acknowledged receipt of the application (Ref: DP/14/00039) and fee payment on 16 January 2014.

- *Environmental Protection Act 1986*: defines Class II or III putrescible landfill sites in Category 64 of Schedule 1 as:  
"Premises on which waste (as determined by reference to the waste type set out in the document entitled Landfill Waste Classification and Waste Definitions 1996) is accepted for burial with a production or design capacity of greater than 20 tonnes or more per year."
- *Waste Avoidance & Resource Recovery Act 2007*: identifies the following principles that underpin the WA Waste Strategy:
  1. Intergenerational equity – ensuring that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
  2. Waste minimisation and waste avoidance – in which all reasonable and practicable steps should be taken to minimise the generation of waste and its discharge to landfill and the environment.
  3. Promoting the most efficient use of resources, including resource recovery.
  4. Considering management options against the waste hierarchy of avoidance, recovery (including reuse, reprocessing, recycling and energy recovery) and disposal.
  5. User pays and polluter pays – where those who generate waste bear the full lifecycle cost of managing their waste.

The Waste Authority has advised that a Strategy is currently under development for the management and disposing of wastes generated in the Perth and Peel regions. The Strategy will focus on maximising avoidance and reuse, and identifying suitable strategically located sites consistent with the principles of the WARR Act.

- *Main Roads Act 1930*: the Great Southern Highway is a road under the control of Main Roads.
- *York Town Planning Scheme No. 2*: was first gazetted on 17 May 1996 and applies to all land within the York Local Government Area, including the subject site that is zoned General Agriculture. The Scheme does not define, identify or make mention of landfill (or waste management facilities).



## State Government Policies and Strategies

- *State Planning Strategy* (WAPC 2012): identifies waste disposal, treatment and recycling facilities as an essential infrastructure item related to Western Australia's growth. The Strategy identifies that a network of strategically located waste management facilities and infrastructure sites are required to cater for this growth.
- *Wheatbelt Land Use and Infrastructure Strategy* (WAPC 2014): provides an overview of regional planning issues and a basis for ongoing planning and development.

The WAPC have stated in the document that they favour the identification and zoning of landfill sites through a scheme amendment process as it firstly requires a local government to agree to initiate a scheme amendment, then if initiated early referral to the Environmental Protection Authority and opportunities for public submissions. The scheme amendment process also provides the ability to establish special conditions for the site prior to development.

Also recommended in the draft Strategy is for landfill sites to be located adjacent to the major transport routes of the Great Eastern Highway, Great Northern Highway and Brand Highway, subject to environmental and land use suitability

- *Avon Arc Sub-Regional Strategy* (2001): provides a regional framework for long-term land use within the Avon Arc that forms part of the western portion of the Wheatbelt region, including York.

The subject property is located in the Darling Range Eastern Slope Land Planning Unit area. The vision for the area is "Open rolling rural landscape with an array of agriculture activities intertwined with pockets of remnant vegetation and woodlands", which is also consistent with the objective of the area in the York Local Planning Strategy.

The Preferred Land Use and Management Guidelines for the area aim to maintain the rural agriculture landscape and that any proposed changes in land use must complement the natural environment.

Section 5.9 of the Strategy discusses Infrastructure needs and opportunities. In relation to Waste Management, the Strategy identifies the longer term scenario should be for total re-use of wastes and not for larger disposal sites, which is particularly relevant where waste disposal sites are close to townsites, within water catchment areas or near water bodies (ground and surface).

The Strategy also identifies the strategic regional importance of the Avon Arc area as a source for waste recycling, which should be investigated further and could become a local employment industry.

- *State Sustainability Strategy* (2003): establishes a sustainability framework containing principles, visions, and goals. It seeks to ensure that sustainability is considered and incorporated into decisions and actions for the future of Western Australia at all levels.
- *SPP 1 – State Planning Framework Policy*: sets out the general principles for land use planning and development in the State and aims to provide a framework to provide for the sustainable use and development of land. The Framework is supported by five principles, which are:
  1. Environment: To protect and enhance the key natural and cultural assets of the State and deliver to all West Australians a high quality of life which is based on environmentally sustainable principles.



2. Community: To respond to social changes and facilitate the creation of vibrant, safe and self-reliant communities.
3. Economy: To actively assist in the creation of regional wealth, support the development of new industries and encourage economic activity in accordance with sustainable development principles.
4. Infrastructure: To facilitate strategic development by making provision for efficient and equitable transport and public utilities.
5. Regional Development: To assist the development of regional Western Australia by taking account of the special assets and accommodating the individual requirements of each region.

Furthermore, Judge Parry in the case of Wattleup Road Development Company Pty Ltd And Western Australian Planning Commission [2011] [WASAT 160] describes the purpose of the Planning and Development Act, is “to 'promote the sustainable use and development of land in the State', the precautionary principle is also implicitly recognised in State Planning Policy No 1 – State Planning Framework Policy (SPP 1).”

- *SPP 2.5 – Land Use in Rural Areas*: provides guidance to consider the need to provide economic opportunities for rural communities and to protect the State’s primary production and natural resource assets. The Policy provides the framework for the WAPC to promote rural zones in schemes as highly flexible zones that cater for a wide range of rural land uses supporting primary production and value adding, small-scale tourism, environmental protection and biodiversity conservation; together with considering the differing needs of the various regions and regional variations.
- *WAPC’s Rural Planning Guidelines (2014)*: provides guidance on the interpretation of SPP 2.5 and considers ‘other non-rural uses’ such as waste management. The Policy recommends when considering non-rural uses to think about the planning framework, its ability to manage ad-hoc proposals, and emphasises that in such cases, rural zone objectives become critical to the decision-making process.
- *SPP 2 – Environment & Natural Resources*: identifies the key to sustainability in the planning sector is to integrate ecological, economic and social considerations into decision-making, including resolution of conflicts between land use and protection of natural resources, giving consideration to potential impacts on the environment, community lifestyle preferences, and economic values. Decision-making should aim to avoid development that may result in unacceptable environmental damage.
- *SPP 4.1 – State Industrial Buffer Policy (1997) & Draft Policy (2009)*: in the assessment of new development interests of affected landowners in surrounding areas must be considered. The 2009 draft Policy attempts to simplify this position and states that if proposals satisfy recommended buffer distances in Guidance for the Assessment of Environmental Factors No 3 Separation Distances between Industrial and Sensitive Land Uses (Environmental Protection Authority, June 2005) then they are deemed to comply with the objectives of the policy.
- *EPA Guideline Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses*: recommends a buffer distance of 150 metres between a Class II or Class III landfill and a single residence. The distance between the site of the landfill and the nearest single residence is 1900 metres. It is also recommended a buffer distance of 35 metres between a Class II or III landfill and the boundary on which it is located. The proposal is located 600 metres from the





property boundary. The proposed buffers indicate that the location of the landfill will comply with SPP 4.1.

- *EPA Draft Siting, Design, Operation and Rehabilitation of Landfills (2005)* recommends that a landfill should not be located where it is not needed for the disposal of a community's waste. In the hierarchy of preferred sites, valley fill landfills should be avoided as they have inherent environmental problems such as unstable slopes, water infiltration and leachate seepage.
- *WA Waste Strategy (Waste Authority 2012)*: aims to reduce the environmental impact of waste and maximise conservation of natural resources through reduced overall material use and increased materials and energy recovery. Its success will be measured against its effectiveness in reducing the amount of waste generated, increasing the proportion of material recovered from the waste stream and reducing the proportion of waste destined for landfill. There is no recycling proposed as part of this development, this is an 'end of lifecycle' proposal.

### **Local Policies**

- *York Local Planning Strategy*: identifies the site in the Darling Plateau (1a) and Western Slopes (2b Conservation) Precincts, predominantly in the latter.

The objectives of the Darling Plateau (1a) Precinct are to protect sustainable agricultural production and to preserve and enhance the environment and natural resources. The objectives of the Western Slopes (2b Conservation) Precinct are to preserve and enhance the environment and natural resources; support continued sustainable agricultural production; promote farm diversification; and to recognise the likelihood that existing lots may be redeveloped.

Supporting strategies in both Precincts include the general presumption against subdivision; preservation and enhancement of the environment and natural resources; supporting continuation of sustainable agricultural production; not to support development requiring large scale clearing; requiring development to be setback from waterways; promotion of farm diversification; and to actively promote and encourage eco-tourism and agricultural tourism.

- *York Community Strategic Plan*: is a visionary document to ensure the future of York is sustainable. There are three main goals of the Plan as follows:

#### Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

#### Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

#### Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

In considering this proposal, the goals relating to Economic Development aim to attract business that 'value add' to primary industry; and the goals relating to the Environment relate to preservation, maintaining rural identity and efficiently using



natural resources, including development of a Regional Waste Management Strategy Plan with 'region' referring to the Avon Valley and Wheatbelt building on the work commenced by the SEAVROC group (further discussion on the Plan follows below.)

- *SEAVROC Strategic Waste Management Plan (2009-2013)*: was developed in 2009 to guide the region's overall waste management direction and to reduce waste going to landfill, with an ultimate goal of zero waste to landfill.

Recommendations in the Plan include a study into the feasibility of a regional landfill and collection service to cater for the waste needs of the SEAVROC Region, and any opportunities for the potential for income through the importation of waste to the region from other local governments, particularly metropolitan areas. The Plan scheduled completion of the Feasibility Study in December 2009, but as it was not considered high priority for the group and consequently the Study was not initiated. The Plan today continues to be a reference document, but is acknowledged by the SEAVROC Shires as being out of date and requiring a comprehensive review.

## **Consultation:**

### Public Consultation

As part of its reconsideration process, the amended application was re-advertised in accordance with the provisions of the York Town Planning Scheme No. 2. The application was advertised for a period of 28 days by placing advertisements in locally circulating newspapers (i.e. Avon Valley Gazette and York Community Matters) and on Council's website. Letters were also set directly to nearby affected landowners and to persons who previously made submissions. The application was advertised from 22 April 2015 to 25 May 2015.

All advertising material identified the application as a Development Assessment Panel application in accordance with the DAP Regulations and also identified the development as an amended proposal the subject of a Section 31 reconsideration.

The Schedule of Submissions attached to this Report at Attachment 5 contains a summary of the main points of the submissions. Copies of the submissions (in their entirety) are attached at Appendix 5A.

A total of 287 public submissions were received. 3 submissions were in support (one from the landowner, one from the applicant, and one member of the public). 284 submissions were in objection. [Consistent text size](#)

Objections generally related to concerns regarding:

- Inconsistencies with the Shire of York Town Planning Scheme No. 2 and the objectives of the General Agricultural Zone, Shire of York Local Planning Strategy and Shire of York Community Strategic Plan.
- Inconsistencies with State or regional strategic plans or policies.
- The use of prime, productive agricultural land for landfill.
- The lack of benefits for the York community and locality as a result of the proposal.
- Impacts on amenity, history, heritage (including Aboriginal heritage) and lifestyle.



- Impacts on local employment.
- Concerns of contamination and pollution of land, water, air and surrounding farms, nature reserves and National Parks.
- The location of the site within the catchment area resulting in pollution of drinking water and groundwater.
- Concerns that the liner integrity cannot be guaranteed, with the risk of rupture and leakage.
- Impacts of natural disasters and local weather events including earthquakes, high winds and flash flooding.
- Traffic impacts of additional large trucks and increased traffic on Great Southern Highway.
- Impacts on nearby farms, particularly regarding stock, stock water supplies, bio-security and organic status.
- Impacts on tourism.
- Impacts on flora and fauna as a result of clearing, increased vermin and pests.
- The devaluation of land.
- Increased potential risk of fire, and further reliance on volunteer emergency services.
- Concerns that the size and/or classification of the facility will be modified in the future, and that the approval of this facility would act as precedence for future applications.
- Concerns regarding inconsistencies and mistruths in documents provided to the Shire, EPA and DER.
- Whether the specific site is suitable for landfill, where alternative sites utilising rail for transport and existing mine pits are more viable.
- Dated landfill technology and there are better alternatives.
- Concerns for legacy and impacts for future generations.
- Common community opposition of the proposal.

Support generally related to benefits including:

- Increased local employment.
- Screening of visual impact of the landfill site.

#### Consultation with other Agencies or Consultants

Referrals were sent to the State government agencies who were previously invited to comment on the original application inviting them to comment on the amended proposal. No specific objections were raised from the ten agencies however a number provided comments relating to relevant legislation. These are discussed in the planning assessment section of the report with the full Agency submissions being provided in Attachment 6.

#### **Planning assessment:**

Relevant planning issues identified by assessment of the proposal against the scheme include:

- Land use permissibility in the General Agriculture Zone
- Orderly and proper planning
- Visual impact and rural character
- Nuisance, health and amenity



- Access, egress, and traffic
- Environmental risk
- Fire and natural hazards

In summary, the application does not demonstrate compliance with the scheme in relation to:

- Land use permissibility
- Orderly and proper planning
- Visual impact and rural character

### ***Land use permissibility***

The land use 'landfill' and/or 'waste management facility' are uses that are not listed in the zoning table or scheme, therefore this proposed development is to be considered under CI 3.2.4 of the scheme, as an unlisted use. Under CI 3.2.4 of the scheme, the proposed use can only be permitted if it is consistent with the objectives and purposes of the General Agriculture zone.

To be consistent with the objectives of the General Agriculture Zone, a proposal must:

- Ensure the continuation of broad-hectare agriculture as the principal land use in the district, encouraging the retention and expansion of agricultural activities (CI 4.15.1(a));
- Consider non-rural land uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment (CI 4.15.1(b) of the scheme);
- Allow for facilities for tourists and travellers, and for recreation uses (4.15.1(c) of the scheme);
- Have regard to residential use of adjoining land at the interface of the General Agriculture zone (cl4.15.1(d) of the scheme, note that this is not relevant to the subject land which is not at the interface of any urban zone).

### **Continuation of broad hectare agriculture**

The application will restrict the continuation of broad-hectare agriculture, both during and after the life of the landfill, on the portion of the site affected by the development. During operation, cropping and grazing will be precluded on the general development area – including the landfill, access areas, borrow pit areas and all fenced areas. This will reflect a total area of 81 hectares removed from agricultural uses. Following remediation, the landfill site (36ha) is unlikely to be suitable for ongoing broad-hectare agriculture. The proposed slopes (1 in 5) would be unsuitable for cropping, which is the current agricultural use of the site. This may result in the permanent loss of land for agricultural production (in particular cropping) as a result of a temporary, non-rural land use.

Community submissions raised concerns that the presence of a land fill development may impact on surrounding agriculture production, in particular organic farms. Potential offsite impacts (including dust, litter, and other nuisance elements) are discussed in detail as an environmental issue, later in this report.

The original application documentation included an analysis of current cropping areas in the Shire, and argued that the area removed from agricultural uses is a very



small percentage of total cropping lands in the Shire of York (reflecting 0.15% of gross crop yield for the Shire).

It is acknowledged that the application does not threaten the availability and viability of broad-acre agriculture in the district more widely. However, cl 4.15.1(a) of the scheme also focusses on retaining and expanding agricultural land. The potential for incremental, permanent loss of agricultural land, as a result of a temporary land use, in a district where expansion of agricultural land is already constrained by salinity and vegetation protection is not consistent with objectives to encourage and retain agricultural activities.

The proposed application is not considered to comply with scheme objectives related to the retention and expansion of agricultural activities.

### Benefits to the district

Non-rural uses, such as landfill, may be considered appropriate if they are shown to be of benefit to the district and not be detrimental to the natural resources or the environment as per clause 4.15.1 (b) of TPS2.

The landfill is proposed to cater for waste from the Perth metropolitan region, not the surrounding district. Therefore, the primary benefit of the proposal – being safe and efficient management of wastes - will not be experienced by the district.

The supplementary report identifies potential, incidental benefits that may be provided by the proposal, including:

- Agreement with a local waste management provider, supporting local employment;
- Provision of fire fighting equipment for use in local fire management; and
- An offer to collect the Shire's class II waste, providing a direct financial benefit to the Shire.

The offer to manage the Shire's class II waste should not be considered as a benefit for the purposes of the development application, nor as a relevant planning consideration, as it relates only to a direct financial benefit to an individual organisation. It is noted the Shire has not accepted not responded to this offering, and will look to improve management of municipal waste through appropriate strategic planning projects.

To be of benefit to the district, application for non-rural uses should provide long term social and economic development benefits. The benefits proposed by the applicant – in the form of local employment – will only be experienced in the short term, during the operation of the facility. The proposal will not foster the expansion of a new or growing industry in York that would create expanded, long term local employment. Therefore, whilst short term employment opportunities are presented by the proposal, these are not considered to reflect a clear benefit to the district of York as required by the objectives of the scheme.

The applicant has advised that *'Firefighting equipment retained on-site will be available to the assist with local fire management when not required on-site.'* There are very few details provided with the application to understand how this arrangement will function and provide local benefit.



The proposed application is not considered to comply with scheme objectives related to the need for non-rural uses to provide a benefit to the district.

### Tourism facilities

The General Agriculture zone enables consideration of non-rural uses that provide facilities for tourists, travellers and recreation users as per 4.15.1 (c) of TPS2. The proposed landfill will not provide for tourist, travellers, recreation or hospitality users, due to the nature of the activity on site. No public access would be permitted to the landfill.

A potential social/economic risk of the proposal may be presented by impacts to tourism and hospitality industries if the tourist experience was to be impacted by a loss of visual amenity or experience with heavy vehicles. These risks are discussed later in the report in relation to visual impact and traffic planning issues.

The application is not considered to be consistent with objective (c) of the General Agriculture zone (4.15.1 (c) of TPS2).

### ***Orderly and proper planning***

When considering an application for planning consent, the local government shall take into consideration the matters listed under clause 8.5 of TPS2, including consideration of orderly and proper planning (sub clause b) and the operation of the state and regional planning framework and policy.

The original development application report noted that this site was selected following an assessment of 19 sites. In addition, this report discusses the limitations with the existing facilities in the metropolitan area and that future development on the Swan Coastal Plain is difficult due to DER Guidelines.

It is acknowledged that the geology of the Swan Coastal Plain (being sandy soils) is unsuitable for landfill sites as sandy soils cannot manage the environmental risk presented. However, the site selection process undertaken by the applicant has not followed a consultative, strategic planning process based on the local planning framework.

The Western Australian Planning Commission (WAPC) has prepared a *Draft Wheatbelt Regional Planning and Infrastructure Framework* (March 2014). This document acknowledges that waste facilities could be established that accept and manage waste from metropolitan areas, however it goes on to state that;

*'Generally the WAPC favours the identification and zoning of sites through a scheme amendment process, as this requires a local government to agree to initiate a scheme amendment in the first instance, early referral to the Environmental Protection Authority, opportunities for public submissions and the ability to establish special conditions for the sites prior to development.'*

It is acknowledged that this document is in draft form, however does provide some guidance for the future direction of planning within the Wheatbelt. The local planning scheme has not zoned or reserved this land for waste management purposes. The Shire's local planning strategy does not identify locations for waste management facilities.



The local significance of this proposal has not been robustly considered through the local planning scheme or strategy, and it therefore provides an ad hoc approach to a significant planning issue for Perth, York, and other local planning authorities along the Darling Scarp. The approval of significant non-rural land uses in the absence of strategic planning processes is not consistent with state policy, in particular clause 5.1 (a) of State Planning Policy 2.5 – Land Use Planning in Rural Areas which states; '*land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme*'.

It is understood that the facility will accommodate waste from the Perth metropolitan area. As a result, the facility is of a regional significance and planning for such a facility should be considered at a regional level. This should be undertaken through a consultative strategic planning process, culminating in a scheme amendment to an appropriate zone or reservation for the most appropriate regional locations for waste management.

The application is not considered to be consistent with orderly and proper planning.

### ***Amenity - visual impact and rural character***

The proposed development includes an operational footprint of 81 hectares, and a disturbance footprint of 36 hectares for the landfill, and up to 20 hectares for borrow pits.

The subject land is in a location that may be viewed from the adjacent Mount Observation National Park, and the nearby Great Southern Highway which is used by residents, visitors and tourists.

The amended application provides a line of sight drawing illustrating the profile of the future landfill from Mt Observation. However the documentation does not include any detail regarding visibility from Great Southern Highway, nor does it provide a visual impact assessment, as per the *Visual Landscape Planning in Western Australia – a manual for evaluation, assessment, siting and design (WAPC, 2007)*. A visual impact assessment, which clearly articulates the visual character of the locality and provides adequately justified statements to demonstrate there would be minimal impact on landscape character from other vantage points, is required to substantiate there will be no amenity and rural character loss as a result of visual impacts.

The application includes insufficient information to demonstrate that the proposed development will not present visual impacts to public vantage points and adjacent properties.

### ***Nuisance, health and amenity***

State Planning Policy 4.1 requires buffer distances are maintained between industrial uses and sensitive land uses to ensure management of offsite impacts (including noise, odour, dust). SPP 4.1 does not indicate a specific buffer distance to comply with; the most appropriate guidance is given via the Environmental Protection Authority's (EPA) Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses.

The most appropriate industrial land use from the EPA guidance statement for the proposed development is 'Putrescible Landfill Site (Class 2 & 3)'. The guidance statement provides a separation distance, and identifies the impacts for which a



separation is required. The guidance statement recommends a 500m buffer to sensitive land uses, including residential dwellings (subdivisions), and 150m for single residences. The subject site complies with these requirements, and the siting of the footprint achieves a 600m buffer to the common boundary with a property to the east. The 600m buffer is contained wholly within the Allawuna Farm property.

Additionally, the applicant has submitted a dust management plan, odour assessment report and noise assessment report as part of a works approval application to the Department of Environmental Regulation. The technical documents, responding to environmental risk, have not been peer reviewed in the preparation of the Responsible Authority Report. The documents will also be subject to detailed review by the Department of Environmental Regulation in the consideration of a Works Approval and Licence under Part V of the Environmental Protection Act 1986.

The proposed development is consistent with planning policy measures regarding nuisance and environmental health.

### ***Access, egress and traffic***

The amended application does not propose any change to the number of vehicles accessing the site, nor the access or egress arrangements proposed. The amended application has a shorter life, therefore will see vehicle movements for a lesser period of time. Traffic generated from proposed development remains at an additional 74 Allawuna vehicle movements per day.

A submission from Main Roads WA identifies that traffic issues of the proposed development can be managed safely and efficiently. However, it is acknowledged that additional truck movements on Great Southern Highway may be visible to residents and tourists, and may have a perceived impact on their amenity.

When considering access and egress concerning the impact of this development, upgrades will be required to the intersection of Great Southern Highway and the property entrance. These upgrades will improve the suitability and safety of this road. These upgrades have been approved by Main Roads and will be undertaken at the cost of the developer. Additionally, Main Roads has approved the necessary upgrades to the intersection to accommodate the changes in traffic movement.

A detailed traffic impact assessment demonstrates that the increase in traffic resulting from the landfill will have minimal impact on traffic flows along Great Southern Highway. This has been accepted by Main Roads Western Australia.

### ***Environmental risk***

The amended application responds to significant additional environmental investigations undertaken through the SAT appeal process to meet the requirements of the Department of Environmental Regulation (which will separately consider applications for Works Approval and a License to operate under the Environmental Protection Act 1986).

Additional environmental investigations were not submitted as part of the amended development application, however are publically available through a Works Approval application made to the Department of Environmental Regulation, published on the





Department of Environmental Regulation. Being publically available, these documents have informed part of the assessment of the development application.

The technical documents, responding to environmental risk, have not been peer reviewed in the preparation of the responsible authority report. However, they have been reviewed by the Department of Water in their submission on the amended application, and the advice of the Department of Water has been used as the basis for the assessment of issues related to contamination. The documents will also be subject to detailed review by the Department of Environmental Regulation in the consideration of a Works Approval and Licence under Part V of the *Environmental Protection Act 1986*.

#### Contamination/pollution of drinking water resources

Landfill facilities are incompatible land uses within Public Drinking Water Source Areas (PDWSA).

Planning assessment and advice from the Department of Water confirms that the proposed development is located outside of any Public Drinking Water Source Area (PDWSA). A submission on the amended application by the Department of Water identifies that additional groundwater investigation on the subject land shows that the groundwater quality is variable at the site but generally the water has no beneficial use as a human drinking water supply. Review of groundwater monitoring results prepared during the mediation proceedings (and provided in the Works Approval application, not the amended development approval) shows that ground and surface water in the vicinity of the subject land have salinity levels making it unsuitable for drinking water.

The proposed development is consistent with planning policy measures regarding the protection of drinking water resources.

#### Contamination/pollution of land, surface and groundwater resources

The nature of the proposed land use may present environmental and contamination risk of pollutants and leachates escaping the landfill facility and contaminating land, groundwater, and surface water receiving environments, if located on inappropriate geology and not managed.

The amended application is supported by additional technical information, including site investigations into sub-surface soil and groundwater conditions. These investigations have informed the amended application, which reduces the size and depth of the landfill to reduce environmental risk.

The location, soils and geology of the site are mitigating factors that will facilitate management of environmental risks, alongside the proposed lining of the landfill. Heavier soils of the Darling Plateau are more suitable to binding and holding nutrients. The Department of Water has advised that additional studies are generally sufficient to indicate that there is no evidence of the presence of extensive paleochannel systems that might link the landfill site to other catchments. The lining of the landfill will prevent leachates entering the environment through surface or groundwater. Advice from the Department of Water identifies that, on the basis of the additional information provided within the Works Approval application, the proposed



location and management of the landfill will very significantly reduce any likelihood of contamination to the environment.

Contamination risk from storage of chemicals (such as diesel for machinery) can be managed through appropriate bunding of storage locations.

It is considered that the risk of contamination to receiving environments is low, and that any potential issues can be adequately managed. Ongoing risk and management will be managed in detail by the Department of Environmental Regulation through Works Approval and License under Part V of the Environmental Protection Act 1986.

With environmental risks managed through Works Approvals processes, the proposed development is consistent with planning policy measures regarding the protection of land, surface and groundwater resources.

#### Flora and fauna impacts

The subject land includes stands of remnant vegetation and scattered trees that are likely to contribute to local and regional habitat availability for fauna species. In particular, vegetation on the property is a habitat type that may provide foraging resources for Black Cockatoos, which are listed threatened species.

Drawing D010 of the Site Plans (in Attachment 1) illustrates the proposed development footprint over an aerial photograph of the site. Access tracks, the landfill area, borrow pits and infrastructure on the site have been located to avoid stands of remnant vegetation. Scattered trees will be affected by the proposed development area, however the extent of trees that would be impacted would not represent large scale clearing on the property. There is opportunity to mitigate the local loss of scattered trees and habitat by undertaking revegetation works elsewhere on the property, in particular along Thirteen Mile Brook and the minor ephemeral creek immediately east of the proposed landfill site.

The Department of Parks and Wildlife did not provide a submission on the amended plans, however on the original application requested conditions be imposed that required an environmental management plan for black cockatoos. Proposed clearing of scattered trees will be subject to a clearing permit from the Department of Environmental Regulation. Through this process, appropriate Black Cockatoo management plans (if necessary) would be appropriately required, monitoring, and audited by the relevant environmental agency with experience and knowledge in Black Cockatoo management.

With the preparation of management plans requiring local revegetation, the proposed development is consistent with planning policy measures regarding the protection of flora and fauna.

#### Impact of structures/earthworks

Outside the landfill, bulk earthworks associated with the borrow pits and location of stormwater dams presents potential risk of land and water degradation if not managed appropriately.



The proposed stormwater dam is located on a minor, ephemeral creek line. The Department of Water has identified that there is a preference for the dam to be located off-stream.

The proposed borrow areas may experience erosion if not managed and rehabilitated properly. The proposed grade for the recontouring of the pits (1 in 5) will provide a stable embankment, and the geometry provided would suggest a low risk of erosion. Potential issues are manageable through appropriate erosion and sediment controls and rehabilitation post use.

With relocation of the stormwater dam, and preparation of management plans requiring erosion controls and rehabilitation, the proposed development can be consistent with planning policy measures regarding the erosion protection and land degradation.

### Precautionary Principle and Risk Indemnification

SPP 1 provides a framework to provide for the sustainable use and development of land with the precautionary principle implicitly recognised in the Policy (J Parry [WASAT 160]).

The purpose of the Planning and Development Act 2005 is to promote the sustainable use and development of land in the State. 'Sustainable development' has been defined by the Report of the World Commission on the Environment and Development (WCED), "as development that meets the needs of present generations while not compromising the ability of future generations to also meet their needs."

The precautionary principle: "where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:

- Careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment;
- An assessment of the risk-weighted consequences of various options." (Intergovernmental Agreement on the Environment)

The principle of intergenerational equity states that 'the present generation should ensure that the health, diversity and productivity of the environment, is maintained or enhanced for the benefit of future generations.

The amended application has included additional technical investigations in relation to environmental and health risks. Advice from the Department of Water and Department of Health have advised that the amended application and Works Approval processes are sufficient to manage environmental and health risks to acceptable levels.

Community submissions have raised concerns that any environmental damage may result in repair costs to the community. There is opportunity to require performance bonds (in the form of bank guarantees) to provide certainty to the community regarding rehabilitation.



Climate change (emissions)

Whilst there are no specific planning policies related to managing greenhouse gas emissions, methane from landfill does contribute to greenhouse gas emissions. It is acknowledged that the application proposes flaring of methane gases to minimise impacts, and there may be opportunity for energy generation from landfill gases in the longer term.

***Fire and Natural Hazards***

The proposed development is located nearby to a national park and therefore may be impacted by bushfire risks. The amended application is supported by a Fire Management Plan, which includes an assessment of bushfire hazard levels and provides management strategies to manage risk of fires from within the site, and risk of bushfire from outside the site. This document should be reviewed and approved by the Department of Fire and Emergency Services to confirm suitability. No submission was received by the Department during advertising.

A number of submissions raised concern that the subject land may be impacted by earthquake risks, and this may impact the integrity of the facility and cause environmental risks. Geoscience Australia provided a submission on the original application, and advised that the seismicity of the proposed landfill site is at the threshold of moderate. In terms of engineering design, Geoscience Australia advised that the application of current design and construction standards along with appropriate analysis and detailing would ensure a safe facility.

With review and approval of the Fire Management Plan by the Department of Fire and Emergency Services, the proposed development is consistent with planning policy measures regarding fire and natural hazards.

***Other Scheme Requirements***

The planning assessment has considered all other scheme requirements and matters to be considered. These are listed in the table below.

<b>Scheme requirement</b>	<b>Compliance assessment</b>
TPS2 Clause 4.15.3  Site development requirements	Under clause 4.15.3 of TPS2, the building shall have a minimum setback of 15m to the front, rear and side of the property.  This application complies with this requirement.
TPS Clause 8.5  Matters to be considered by local government	(k) the cultural significance of any place or area affected by the development.  Submission from the Department of Aboriginal Affairs confirms that there are currently no Aboriginal sites registered with the DAA within the area of proposed development. No known heritage reasons why the development cannot proceed.



**Conclusion:**

The development application submitted for a landfill at Lots 4869, 5931, 9926 & 26932 (2948) Great Southern Highway, Saint Ronans has been assessed against the provisions of TPS2. The Shire of York is of the view that the development does not comply with the objectives of the scheme and the General Agriculture zone and it is recommended that the proposal is refused.