



**Minister for Environment; Disability Services
Deputy Leader of the Legislative Council**

Your Ref: Petition No 65
Our Ref: 62-09802

Hon Matthew Swinbourn MLC
Chair, Legislative Council Committee Office
Parliament House,
env@parliament.wa.gov.au

Dear Mr Swinbourn ^{Matthew}

Thank you for your correspondence, received in this office on 22 August 2018, seeking comments on the terms of the petition referred to the Standing Committee on Environment and Public Affairs regarding proposed landfills at Lot 12 Chittering Road, Bullsbrook and Lot 1 Jenkins Road, Bullsbrook.

The Department of Water and Environmental Regulation (DWER) has advised me that it has not received applications relating to the two proposed landfills. However, the following advice is provided in relation to the matters raised.

Waste strategy:

You may be aware there is no State Government policy on the siting and need for new landfill capacity.

DWER regulates landfills under the *Environmental Protection Act 1986* (EP Act) to ensure they do not represent an unacceptable risk to the environment or public health. These regulatory processes are not capable of taking a strategic approach to the need for landfills or their siting. This has historically occurred through the State planning process.

The State's Waste Strategy developed under the *Waste Avoidance and Resource Recovery Act 2007* sets out Western Australia's long term waste and recycling strategy. The State's Waste Strategy has been in place since 2012 and is currently being reviewed to ensure that it provides the levers to improve Western Australian's waste performance. The new Waste Strategy will incorporate the waste hierarchy and circular economy principles and aims to drive improvements in Western Australia's performance for reducing waste, increasing resource recovery and ensuring that the environment is protected. The review provides an opportunity to ensure that emerging key strategic issues are addressed. I anticipate the new Strategy will be released later this year.

It is acknowledged that the planning system plays an important role in making land available for landfill infrastructure and ensuring that the site location meets the State's planning objectives. In order to align the planning system with the strategic directions and outcomes of the Waste Strategy, I have liaised with the Minister for Planning to find the best way to achieve this and to ensure the planning and environmental regulation regimes work effectively together. DWER is also working with the Department of Planning, Lands and Heritage to develop a strategic direction for planning on waste infrastructure.

I recognise there remains a place for well-designed landfill facilities that are appropriately located and managed.

Environmental regulation of proposed landfills

Under sections 54 and 57 of the EP Act, DWER assesses works approval and licence applications for a landfill consistent with the objects and requirements of the Act. The decision on whether to grant or refuse an application is based on the assessment of risk to public health and the environment. The assessment also has regard to other issues that may prevent the proposal, such as the status of any planning approval.

If the landfill meets the description and threshold set out in Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations) it is a 'prescribed premises' and is subject to the regulatory provisions described above. The occupier of the premises is required to hold a works approval to construct the premises and a licence to operate it.

Where proposals are likely to have a significant environmental impact, they may be referred to the Environmental Protection Authority (EPA) under Part IV of the EP Act. The EPA will determine whether or not to formally assess proposals under Part IV of the EP Act.

In relation to the proposed landfills at Lot 12 Chittering Road, Bullsbrook and Lot 1 Jenkins Road, Bullsbrook, DWER has advised that it has not received applications for works approvals or licences for these sites, nor have the proposals been referred to the EPA.

Should applications for works approval and licence be received, the applications will be assessed for the environmental and public health risks. All applications are advertised for a public consultation period and people or organisations with a direct interest are notified directly and invited to comment. All submissions received are taken into consideration by DWER as part of the assessment. Decisions are advertised by DWER and notification of the decision is sent to those that made a submission. There is a 21 day appeal period following the Department's decision on the application.

Should the proposed landfills require clearing of native vegetation, a permit may be required under the EP Act unless the clearing is exempt. Applications for clearing permits are assessed against principles contained in Schedule 5 of the EP Act, which consider the environmental values of native vegetation, including impacts to biodiversity, water quality and risks of land degradation. DWER has advised me that

it has not received any applications for a clearing permit for either of the proposed landfills.

Planning advice

Lot 1 (No: 402) Jenkins Road, Bullsbrook

On 20 January 2017, the then Department of Environment Regulation (DER) provided advice to the City of Swan regarding a planning application for Lot 1 (No 402) Jenkins Road, Bullsbrook. The advice outlined the regulatory requirements under the EP Act and noted that there were sensitive receptors within 135 metres of the proposal and nearby residences may experience impacts from noise and dust emissions. The advice also noted that the property is adjacent to the Jenkins Road Gravel Pit, a licensed premises under the EP Act (L8687/52012/1), and that there is the potential for cumulative impacts from dust and noise.

12 Chittering Road, Bullsbrook

On 20 September 2016, DER provided advice to the Western Australian Planning Commission in relation to a planning application for Lot 12 Chittering Road, Bullsbrook. The advice outlined the regulatory requirements under the EP Act and also noted that DER officers had provided advice to the proponents consultants on these requirements. The Department advised it could undertake parallel processing of applications, however, decisions to grant may not be finalised until planning approvals were in place. Similar advice was also provided to the City of Swan on 12 October 2016.

Transport of waste to the landfills

In relation to the issues raised on transport of waste to and from the proposed landfills, including transport routes, transport safety, amenity and tourism impacts of traffic these are matters for consideration by the Planning Portfolio through the planning approval. These activities do not form part of the 'prescribed premises' under the EP Regulations and are not subject to works approval or licensing under the EP Act.

Thank you for the opportunity to provide advice on this petition. Should your office require further information on these matters, please contact Ms Kelly Faulkner, Executive Director, Regulatory Services on 6364 6562.

Yours sincerely



Hon Stephen Dawson MLC
MINISTER FOR ENVIRONMENT

04 OCT 2018