

Department of the Environment and Heritage

Ms Ann Stokie, Secretary
Victorian Malleefowl Recovery Group
25 Belfast Street
Newtown VIC 3220

Dear Ms Stokie

NOTIFICATION OF DECISION UNDER THE COMMONWEALTH EPBC ACT
Major Projects Victoria/Waste management/Nowingi/VIC/Long Term Containment Facility
for the Storage and Management of Prescribed Industrial Wastes/EPBC 2004/1666

Thankyou for your comments, received on 4 August 2004, for the above referral under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The above action was referred by Mark Tansley, URS Australia Pty Ltd and received on 20 July 2004, for decision whether or not approval is needed under Chapter 4 of the EPBC Act.

Your comments were taken into account in deciding whether or not approval should be required under Chapter 4 of EPBC Act. The referral has now been considered under the Act and a decision has been made that the proposed action is likely to have a significant impact on a matter protected by the Act and that approval is required under the EPBC Act. A copy of the decision is attached, for your information. (Further information is also available from the Department's Website under the Public Notification page: <http://www.deh.gov.au/epbc/>).

In this case, the decision reflects the likelihood of significant impact on a number of listed threatened species under the EPBC Act, in particular, the Malleefowl, the Mallee Emu-wren and the Black-eared Miner due to the loss and isolation of habitat and disturbance to movement patterns. The decision also takes into account risks in relation to the long term stability and management of the site and the potential consequences of escaped toxic substances into the environment and potentially into the Hattah Kulkyne Lakes Ramsar site and other Ramsar sites on the River Murray.

The decision-maker has designated Major Projects Victoria as the proponent for the action. This means that they are responsible for carrying out certain steps as part of the environmental impact assessment under Part 8 of the EPBC Act. The first step in the assessment process is for the proponent to provide preliminary information as the basis for determining the level of assessment. If the Department does not need any additional information, then the Commonwealth Decision-maker will decide whether the level of assessment will be based on Preliminary Information, a Public Environment Report, Environment Impact Statement or Public Inquiry. The Commonwealth may also decide to accredit the Victorian Environmental Effects Statement process to meet the assessment requirements of the EPBC Act. However, separate Commonwealth approval will still be needed.

The availability of assessment documentation for public comment will be advertised in the relevant press and on the Department's web site. In addition, I have asked the Department's assessment officer for the proposal to notify you directly at this time, given your interest in the proposal.

The proposal cannot proceed until the above assessment process has been completed and the Minister for the Environment and Heritage, the Hon. Senator Ian Campbell, has decided whether or not to grant approval. Any approval may be subject to legally enforceable conditions for the protection of the relevant matters of national environmental significance (as listed in the attached decision document).

Thankyou for your interest in this matter. We look forward to your future comments on the proposal and it likely impacts on protected matters during the assessment phase.

Yours sincerely

Steve Mercer
Director
Referrals Section
Approvals and Wildlife Division

August 2004

COMMONWEALTH OF AUSTRALIA

Environment Protection And Biodiversity Conservation Act 1999

DECISION ON CONTROLLED ACTION, CONTROLLING PROVISIONS AND DESIGNATION OF
PROPONENT

Pursuant to section 75 of the Environment Protection and Biodiversity Conservation Act 1999, I, MARK FLANIGAN, Assistant Secretary, Policy and Compliance Branch, Department of the Environment and Heritage, decide that the proposed action, set out in the Schedule, is a controlled action; that the controlling provisions for the action are those set out in the Schedule; and designate Major Projects Victoria as proponent of the action.

SCHEDULE

The proposed action to construct and operate a long term containment facility at Nowingi, Victoria, for the storage and management of prescribed industrial wastes, and associated infrastructure and services (EPBC 2004/1666).

The Part 3, Division 1, controlling provisions are:

- Sections 16 and 17B (Wetlands of international importance).
- Sections 18 and 18A (Listed threatened species and communities).
- Sections 20 and 20A (Listed migratory species).

Dated this 18 day of August 2004

ASSISTANT SECRETARY
POLICY AND COMPLIANCE BRANCH
DEPARTMENT OF THE ENVIRONMENT AND HERITAGE