



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST EPA'S REPORT AND RECOMMENDATIONS - REPORT 1755 GABANINTHA VANADIUM PROJECT

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section **100(1)(d)** of the *Environmental Protection Act 1986* in objection to EPA Report 1755. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Committee's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	Yugunga-Nya Native Title Aboriginal Corporation, a Prescribed Body Corporate (YNPBC)
Proponent:	Technology Metals Australia Limited
Proposal description:	EPA's Report and Recommendations – Report 1755 Gabanintha Vanadium Limited
Minister's Decision:	The Minister allowed in part the appeal.
Date of Decision:	13 December 2024

REASONS FOR MINISTER'S DECISION

The Minister received an appeal objecting to the EPA's Report and Recommendations - Report 1755 Gabanintha Vanadium Project.

The Minister has understood that the appellant's main concerns related to the inadequacy of the proposed conditions to provide for on-going consultation with the Yugunga-Nya People, and the proposed conditions do not provide adequate funding to enable the Yugunga-Nya Native Title Aboriginal Corporation, a Prescribed Body Corporate (YN PBC), to be properly involved with the on-going monitoring and management of the proposal.

Decision

Having considered the information available to the Minister, including the EPA's response to the appeal and the Appeals Committee's report and recommendations, the Minister has decided to uphold the appeal in part.

His reasons are set out below.

Inadequate ongoing consultation with the Yugunga-Nya People

The Minister has understood the appellant argued that the EPA recommended conditions that do not ensure the YN PBC remain updated on baseline studies, management, compliance reporting and future regulatory processes relating to the protection of the environment and cultural values.

The Minister has noted that the EPA acknowledged some conditions could be strengthened to improve on-going consultations with the Yugunga-Nya People through the YN PBC consistent with your suggestions, but that other suggested changes would duplicate existing requirements and were not necessary.

The Minister has agreed with the EPA.

The Minister has noted the advice from the Appeals Committee that the appellant advised verbally at the meeting with the Appeals Committee that they accepted the EPA's recommendations with respect to this appeal ground.

The Minister has, therefore, upheld this ground of appeal to the extent recommended by the EPA that conditions B2-3, B5-3 and B7-1 be amended to ensure the Yugunga-Nya People are consulted as part of the implementation of the proposal.

Inadequate funding for the Yugunga-Nya People to be involved with the on-going monitoring and management of the proposal

The Minister has understood that the appellant's key concern was that YN PBC currently has limited resources, and they argued that the conditions should include requirements for the proponent to fund the YN PBC so it can be properly involved in the development of baseline studies, management and compliance reporting.

The Minister has noted that the EPA's advice on this appeal ground provided several reasons as to why such conditions should not be agreed to, including that it would be inappropriate to set legally binding conditions on the proponent requiring the provision of unspecified and unlimited funding and opportunities to third parties.

The Minister has agreed with the EPA on this matter.

The Minister has noted the advice from the Appeals Committee that you advised verbally at the meeting with the Appeals Committee that you accepted the EPA's recommendations with respect to this appeal ground.

The Minister has, therefore, dismissed this ground of appeal.

Inadequate protections of the values associated with the Stage 2 Water Supply Area

The Minister has understood that the appellant argued the recommended conditions do not provide adequate protection of the values of the water sources, hunting and camping grounds and during the life of the operation, in particular, for Gabanintha Pool, which the appellant advised is particularly significant to the Yugunga-Nya People. The appellant has noted that Condition 82-4 requires the proponent review and update the Inland Waters (Groundwater) and Subterranean Fauna Management Plan (IWSFMP), and the appellant argued that this

review should include consideration of the outcomes of the peer-review report which is in the Appendix D4-B of the proponent's Environmental Review Document and recommended that Condition 4-4 be amended accordingly. The appellant has also wanted the review to consider the outputs of the 2024 Work Program.

The Minister has noted the advice from the EPA that it recognised the findings of the peer-review report referred to by the appellant are relevant to the management of Gabanintha Pool and recommended that this ground of appeal be upheld in part to require the proponent to include consideration for the recommendations of the peer review report in the revision of the IWSFMP, but not the 2024 Work Program.

The Minister has noted the advice from the Appeals Committee that the appellant advised verbally at the meeting with the Appeals Committee that the appellant accepted the EPA's recommendations with respect to this appeal ground.

The Minister has, therefore, upheld this ground of appeal to the extent recommended by the EPA that conditions C1-1 be amended to ensure the revision of the IWSFMP considers the outcomes of the peer-review report the appellant referred to.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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