



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF WORKS APPROVAL: W6163/2018/1 HANSON OLDBURY SAND QUARRY, SHIRE OF SERPENTINE JARRAHDALE

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 102(3)(a) of the *Environmental Protection Act 1986* in objection to the above works approval. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	City of Kwinana
Applicant:	Hanson Construction Materials Pty Ltd
Proposal description:	The works approval authorises the construction and time-limited operations of a mobile screening plant on premises located at Lot 6 Banksia Road, Lots 300 and 301 Boomerang Road. The time-limited period of operations is 180 days.
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	12 April 2022

REASONS FOR MINISTER'S DECISION

An appeal was received from the City of Kwinana objecting to the conditions of the works approval issued by the Department of Water and Environmental Regulation (DWER) in relation to the above premises.

The appeal raised concern that the conditions on the works approval are inadequate to regulate the risks from dust and impacts to groundwater quality and levels.

In summary, the Minister understood that the City is concerned about impacts to human health and to the Tumulus Mound Springs Threatened Ecological Community (TEC) and wetland, and that the appellant is seeking for several changes to the conditions on the works approval. The City's concerns are set out in detail in the Appeals Convenor's report.

Minister's decision

Having considered the information available, including DWER's response to the appeal and the Appeals Convenor's report and recommendations, the Minister was satisfied that DWER applied conditions that are proportionate to the level of risk from emissions to air and groundwater during the construction and time-limited operations at the premises.

The Minister, however, allowed the appeal to the extent that further conditions are applied to the works approval to include a target for ambient dust particles sized 10 micrometres (PM₁₀) in line with the National Environment Protection Measure (NEPM) and additional management actions, should this target be reached. Key management actions included in the Minister's decision require the works approval holder to investigate and report details of the exceedance, monitoring data, and any actions taken towards controlling dust emissions from the premises. The Minister otherwise dismissed the appeal and his reasons are set out below.

Conditions to manage dust can be improved

DWER advised the Minister that sand mining tends to be associated with larger particles (PM₁₀ and greater) and that dust of particle size PM₁₀ is the parameter consistently applied to similar operations where dust monitoring is required. The Minister noted that information from New South Wales Health confirms that fine dust particles generally account for around 5 per cent of dust emissions from mining activities.

The Minister considered that the intent of the conditions as applied by DWER are proportionate and appropriate to manage dust and collect data for future regulation of the premises to ensure that the community is not unreasonably impacted. However, the Minister agreed with the Appeals Convenor that the recommended additional conditions will improve DWER's capacity to validate the effectiveness of other dust controls on the works approval and support the ongoing assessment and management of dust emissions from the premises.

The Minister therefore accepted the Appeals Convenor and DWER's advice that the works approval should be amended to include a management target for ambient dust of particle size PM₁₀ in line with the NEPM and additional conditions that require the proponent to investigate and report relevant information should this target be reached.

Conditions to manage groundwater impacts are adequate

The Minister understood the relevant emissions from the mobile screening plant that have the potential to impact groundwater are hydrocarbon spills from screening machinery and vehicles. DWER advised the Minister, and he accepted, that the risk of minor impacts to the Tumulus Mound Springs TEC and wetland are unlikely with the conditions applied to the works approval for construction and time-limited operations. The Minister understood that the screening plant activity will not impact the water levels of the wetland.

The Minister noted that vegetation clearing and sand extraction which relate to the larger quarry project are regulated by provisions under other regulatory instruments and processes.

The Minister also noted that a future licence assessment process for the premises may provide an opportunity for review and comment on monitoring and management measures, and that there are appeal rights related to any licence issued for the premises.

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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