



Environmental Protection Act 1986

Hon Amber-Jade Sanderson MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST CONDITIONS OF WORKS APPROVAL W6420/2020/1 – PART LOT 9005, EDEN ROAD, NULLAKI PENINSULA, CITY OF ALBANY

Purpose of this document

This document sets out the Minister's decision on appeals 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.

Appellants: Mr Barry Jackson; Ms Clare Jackson and Mr Stephen Grimmer;
Ms Diane Evers; and Ms Bernadette Santo-Spirito

Works approval holder: Nigel Palmer Earthmoving Pty Ltd

Proposal description: Works Approval W6420/2020/1 authorises the crushing and screening of limestone to a maximum of 50,000 tonnes (between 1 December and 31 March) for a time limited operation of 90 days

Minister's Decision: The Minister dismissed the appeals

Date of Decision: 24 August 2021

REASONS FOR MINISTER'S DECISION

Four appeals were received against the conditions applied to the above works approval issued by the Department of Water and Environmental Regulation (DWER) to Nigel Palmer Earthmoving Pty Ltd (works approval holder).

The works approval allows the construction and operation of crushing and screening of limestone (between 1 December and 31 March) for a time limited operation of 90 days. The works approval expires on 31 December 2021.

The key concerns raised by the appeals relate to dust and noise emissions and acid sulfate soils. Appellants also raised other issues not directly related to the conditions of the works approval, such as the accuracy of plans provided in support of the application and compliance with other approvals, e.g. clearing approvals and road safety.

Decision

Having considered the information available to her, including DWER's response to the appeals and the Appeals Convenor's report, the Minister was satisfied that the works approval conditions are appropriate. Therefore, the Minister dismissed the appeals.

However, the works approval holder will require further approval, in the form of a licence to authorise emissions associated with the continued operation of crushing and screening equipment.

In relation to the appellants' concerns that are not related to the conditions of the works approval, the Minister considered that these are beyond the scope of the appeals and are not considered further.

Noise and dust emissions

The appellants raised concerns about DWER's assessment and management of noise and dust emissions.

The Minister was advised that in its assessment of noise and dust in the Decision Report, DWER did not identify two residences and had incorrectly interpreted wind data. DWER advised that it reviewed its noise and dust assessment with the correct wind data and additional two residences, and the risk assessments remain valid where DWER found the overall risk of dust and noise emissions to be low.

The Minister noted that the works approval limits operations from 1 December to 31 March and requires vehicle warning light reversing alarms; limited machinery sound power levels; limited vehicle speed limits within the premises boundary, and availability of a water cart and sprinkler system. The premises will be required to comply with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations).

The Minister was also advised that the works approval has compliance and record management requirements including reporting public complaints.

Noting the distance to sensitive receptors, the low level of risk and requirement to comply with the Noise Regulations and SAT conditions, it is considered that the conditions of the works approval are appropriate to manage noise and dust emissions during time limited operations. Any data collected during construction and time limited operations can be used to inform future licence conditions.

Acid sulfate soils

The appellants raised concerns that DWER had not assessed the acid sulfate soil risk at the premises.

DWER advised that acid sulfate soils are highly unlikely to extend to the elevated limestone ridge that is not subject to inundation and has a large separation distance to groundwater. Noting that the works approval is limited to the regulation of the crushing and screening plant and the ore processing does not require groundwater dewatering, the Minister considered it reasonable that DWER's assessment did not include the assessment of acid sulfate soils.

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*.

Office of the Appeals Convenor

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