



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF WORKS APPROVAL W6281/2019/1 RELOCATABLE CRUSHER REPLACEMENT, MT WHALEBACK/OREBODY 29/30/35

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 conditions applied 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:	Michael John Hain, Hain FT Pty Ltd and Anderson UT Holdings Pty Ltd
Proponent:	BHP Billiton Iron Ore Pty Ltd
Proposal description:	To construct, install and commission a 12 million tonnes per annum relocatable crusher at Mt Whaleback Orebody 29/30/35 site
Minister's Decision:	The Minister allowed in part the appeal
Date of Decision:	27 November 2020

REASONS FOR MINISTER'S DECISION

An appeal was lodged on 8 February 2020 in objection to the conditions applying to the above works approval. The works approval the subject of the appeal was issued to BHP Billiton Iron Ore Pty Ltd (BHP) by the Department of Water and Environmental Regulation (DWER) on 23 January 2020. The works authorised by the approval are the replacement of an existing relocatable crusher with a new relocatable crusher OHP5 (ore handling plant) at BHP's Mt Whaleback operations, west of Newman.

The appellant submitted that DWER inadequately assessed dust impacts from the proposed works, applied inappropriate standards to the assessment of the proposal, and failed to apply conditions to ensure dust emissions from the works will be identified and acted upon.

The Mt Whaleback operations are the subject of a licence (L4503/1975/14) issued under section 57 of the *Environmental Protection Act 1986* (the Act). The proposed works are to occur within the boundaries described in that licence. By section 53 of the Act, any occupier of the prescribed premises who alters the nature or volume of emissions from the premises

commits an offence unless the person does so in accordance with (among other things) a works approval. The Minister understood that the new crusher falls within the scope of section 53, and on that basis, a works approval was sought and granted.

The works are more particularly described in condition 1 of the works approval, and includes a primary crusher, three secondary crushers and multiple other crushers. Condition 1 also requires certain management measures to be applied during installation, including water tankers to be used to apply water to sites within areas of operation which have the potential to generate dust, including unsealed roads, haul roads and construction areas.

In assessing the works, DWER noted that there has been an increase in the concentration of PM₁₀ in 2018/19 compared to the previous year, and that the majority of exceedances of *National Environment Protection (Ambient Air Quality) Measure* (NEPM) criteria were linked to mining activities. DWER advised that as a result of this, it is reviewing the licence and liaising with the Department of Health (DoH).

In relation to the new relocatable crusher OHP5, DWER accepted BHP's advice that dust emissions are predicted to reduce due to:

- reducing haul distances (it is a significantly shorter journey to OHP5 from Orebodies 29, 30 and 35 than to OHP2 where the ore is currently hauled)
- reducing Marra Mamba ore OHP drop height to the Coarse Ore Stockpile (OHP2 is located much higher in the landscape and has a larger drop height than OHP5)
- reducing the number of transfer stations the Marra Mamba ore passes through by approximately 16
- providing opportunity to focus dust reduction measures OHP5, which will be dedicated to exclusively processing Marra Mamba ore.

Decision

Taking into account the concerns raised in the appeal, as well as the advice of the Appeals Convenor, DWER and BHP, it is clear that there are concerns about the level of dust emissions associated with mining operations around Newman. BHP has submitted that the replacement of the existing relocatable crusher OHP5 will result in a reduction of dust emissions. DWER has approved the works on this basis and will consider the results of dust monitoring during time limited operations of the new crusher, prior to incorporating the operation of the new crusher into the licence.

Noting the outcome of the new works is to reduce emissions of dust, the Minister considered DWER's approach is justified. However, the Minister agreed with the Appeals Convenor that the appeal should be allowed in part to clarify the authorised works and provide better information on dust to inform any future licence amendment.

It follows that the Minister allowed the appeal by amending the works approval as follows:

- condition 1 is amended to:
 - properly reflect the scope of works subject of the approval by deleting reference to 'multiple crushers' in column 1 of Table 2
 - clarify that all items in the first column of Table 2 are collectively defined as 'OHP5 Relocatable Crusher', and that this term is used consistently throughout the approval
- condition 12 is amended to require BHP to report on ambient dust levels to provide guidance to DWER on the extent to which dust levels have been reduced.

The Minister otherwise dismissed the appeal.

In relation to the appellant's request that the works approval include a condition requiring the use of LiDAR monitoring, given the existing monitoring regime identified an increase in dust emissions from mining operations, the Minister did not consider there was a need to add to that monitoring at this time.

It is important that the proposed works achieve its intended outcome of reducing dust, and that dust generally is considered by DWER as a part of the review of the licence.

On the application of the NEPM, DWER indicated it will be undertaking consultation with the DoH on the standards that should apply.

On the risk posed by smaller fraction (PM_{2.5}) particles, and substances such as asbestos and respirable crystalline silica, the Minister agreed with the Appeals Convenor that these matters should be considered by DWER through the current licence review, which will include input from the DoH.

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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