



Department initiated Amendment

Part V Division 3 of the *Environmental Protection Act 1986*

Works Approval Number	W6163/2018/1
Works Approval Holder	Hanson Construction Materials Pty Ltd
ACN	009 679 734
File Number	DER2018/00178
Premises	Hanson Oldbury Sand Quarry Lot 6 on Diagram 47557, Lot 300 on Diagram 75682 and Lot 301 on Diagram 75682, Boomerang Road, OLDBURY WA 6121
Date of Report	1 June 2022
Decision	Revised works approval granted

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A/MANAGER, RESOURCE INDUSTRIES
REGULATORY SERVICE

an officer delegated under section 20
of the *Environmental Protection Act 1986* (WA)

Table of Contents

1. Decision summary	1
2. Scope of assessment	1
2.1 Regulatory framework	1
2.2 Amendment summary	1
3. Consultation	2
4. Conclusion	2
4.1 Summary of amendments.....	2
References	3
Appendix 1: Summary of Works Approval Holder's comments on draft amendment	4

1. Decision summary

The Delegated Officer has determined to make amendments to works approval W6163/2018/1. This Amendment Reports documents the amendments made pursuant to section 59 and 59(B) of the *Environmental Protection Act 1986* (EP Act).

This amendment is made pursuant to section 59(1)(j) of the EP Act, being an amendment to give effect to a decision to the Minister for Environment (Minister) under the EP Act.

A copy of the Minister's appeal Determination and Appeal's Convenor's report Ref 044/2021 can be obtained from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

The decision report for the existing works approval will remain on the Department of Water and Environmental Regulation's (the department) website for future reference and will act as a record of the department's decision making.

2. Scope of assessment

2.1 Regulatory framework

In amending the works approval, the department has considered and given due regard to its Regulatory Framework and relevant policy documents which are available at <https://dwer.wa.gov.au/regulatory-documents>.

2.2 Amendment summary

On 6 October 2021, a works approval was granted to Hanson Construction Materials Pty Ltd (works approval Holder) for Hanson Oldbury Sand Quarry (the premises) located within Lot 6 on Diagram 47557, Lot 300 on Diagram 75682 and Lot 301 on Diagram 75682, Boomerang Road (the site). The works approval authorised construction and time limited operation of a category 12 prescribed activity (screening of material) at the premises.

Under section 102(3)(b) of the EP Act, third parties aggrieved by any condition of the licence are able to lodge an appeal direct to the Appeals Convenor within 21 days of the applicant being notified of the decision to grant a works approval under section 102(3)(a) of the EP Act. One appeal was received in relation to W6163/2018/1.

An appeal from City of Kwinana was submitted 28 October 2021, which raised concerns that the conditions on the works approval were inadequate to regulate the risks from dust and impacts to groundwater quality and levels.

On 12 April 2022, the department was advised that the appeals lodged under sections 102(3)(a) of the EP Act in objection to the conditions imposed on works approval W6163/2018/1 had been determined by the Minister. The Minister determined to allow the appeal in part and requested the department amend W6163/2018/1 to include additional dust monitoring conditions.

In summary, the Minister allowed the appeal to the extent that:

- A target of 50 µg/m³ over a 24-hour averaging period for ambient PM₁₀ (consistent with National Environmental Protection Measure (NEPM) at the monitoring locations stated in condition 11.
- Management actions in the event that ambient monitoring data indicates and exceedance of the ambient PM₁₀ target to support ongoing management and assessment of the risk from dust including:
 - a requirement for the works approval holder to investigate and report to the CEO on any exceedance within a specified time frame; and
 - the information that the works approval holder reports to the CEO may

include the details of the exceedance: ambient monitoring data, meteorological monitoring data and any actions that the works approval holder has taken towards preventing and controlling dust emissions from the premises.

The amendment has been initiated by the CEO to give effect to the Minister's appeal determination. There is no right of appeal to this amendment under section 105 of the EP Act.

The monitoring data derived during time-limited operation is necessary for assessing whether any additional regulatory controls are required for the operation of the prescribed premises under a licence.

3. Consultation

The works approval Holder was provided with the draft works approval and Amendment Report on 6 May 2022. Comments were received from the works approval Holder on 27 May 2022 and have been considered by the Delegated Officer as detailed in Appendix 1.

4. Conclusion

The Delegated Officer has reviewed the Minister's Appeal Determination (and the Appeals Convenor's Report to the Minister) relating to the conditions of W6163/2018/1 and has made amendments to the works approval to give effect to the Minister's determination to allow the appeal in part. Based on the assessment in this Amendment Report, the Delegated Officer has determined that an amended works approval will be granted, with changes necessary to give effect to the Minister's appeal determination to the works approval.

4.1 Summary of amendments

Table 1 below provides a summary of the proposed amendments and will act as a record of implemented changes. All proposed changes have been incorporated into the revised works approval as part of the amendment process.

Table 1: Summary of works approval amendments

Condition no.	Proposed amendments
11.	<i>Revised Table 3 to include a target for air quality consistent with the NEPM guidelines to allow works approval Holder to report against any exceedances.</i>
20.	<i>Condition 20 added with requirement for works approval Holder to report any non-compliance of dust targets (during both construction and time limited operations phases) to the CEO within 7 days.</i>
General	<i>Condition numbers have changed (+1) after addition of new condition 20.</i>

References

1. Appeals Convenor, April 2022, *Report to the Minister for Environment – Appeals against Conditions of works approval W6163/2018/1 Hanson Oldbury Sand Quarry, Shire of Serpentine Jarrahdale*. Appeal No. 044/2021
2. DWER 2019, *Guideline: Industry Regulation Guide to Licensing*, Perth, Western Australia.
3. Hon Reece Whitby, Minister for Environment, 12 April 2022, *Minister's Appeal Determination – Appeals against conditions of works approval W6163/2018/1 Hanson Oldbury Sand Quarry, Shire of Serpentine Jarrahdale*

Appendix 1: Summary of Works Approval Holder's comments on draft amendment

Condition	Summary of Works Approval Holder's comment	Department's response
11	Request that condition is amended to allow 30 calendar to undertake air quality monitoring.	<p>The appeal was lodged by a third party through the Office of the Appeals Convenor. The Delegated Officer is unable to make changes to conditions that are not the subject of the appeal in this amendment.</p> <p>The requirement to undertake air quality monitoring within seven calendar days was an existing condition of the works approval and was not the subject of the appeal. It is therefore considered beyond the scope of the appeal and has been dismissed.</p> <p>The department is available to discuss this request with the works approval holder with the opportunity to apply for an amendment to the instrument should changes be necessary.</p>
11	Request that condition include a requirement to engage a qualified consultant.	The Delegated Officer does not think it is necessary to condition the requirement engagement a qualified consultant.
11	Request that the requirement to "report in accordance with condition 18" is removed.	<p>The Delegated Officer has considered this request and has determined to remove the words "report in accordance with condition 18" from condition 11.</p> <p>Reporting requirements are adequately captured in condition 20.</p>
11	<p>Table 3 of condition 11 references monitoring for PM10 in accordance with AS3580.9.8. This methodology requires installation of a Tapered Element Oscillating Microbalances (TEOM). A TEOM requires:</p> <ul style="list-style-type: none"> Access to main power sources as the monitoring unit includes refrigerate air-conditioning A cleared and level area of approximately 1 to 2m² <p>DWER's designated monitoring location are located outside of the approved purpose</p>	<p>The department is unable to make changes to conditions that are not the subject of the appeal in the same amendment.</p> <p>Given that the type of dust monitoring equipment nor the location was not raised by the appellants during the appeal, this request is considered beyond the scope of this amendment.</p>

Condition	Summary of Works Approval Holder's comment	Department's response
	<p>permit clearing boundary. The applicant has requested that the condition is amended to allow for an approved equivalent method of dust monitors to be installed.</p> <p>Specifically, the applicant is seeking approval for the use of solar dust monitors, citing the reduced vegetation clearing requirements for installation of solar dust monitors.</p> <p>If this approach is not supported, the applicant has requested that the DWER consider alternative locations for the TEOM monitors that do not require the clearing of additional native vegetation.</p>	<p>The department is available to discuss this request with the works approval holder with the opportunity to apply for an amendment to the instrument should further changes be necessary</p>
18	<p>Request that the condition is amended to allow for 60 calendar days to submit report from completion of time limited operations.</p>	<p>The Delegated Officer is unable to make changes to conditions that are not the subject of the appeal in this amendment.</p> <p>This request is considered out of scope as the requirement to report within 30 days was an existing condition of the works approval.</p> <p>The department is available to discuss this request with the works approval holder with the opportunity to apply for an amendment to the instrument should changes be necessary</p>