



Environmental Protection Act 1986

**Hon Stephen Dawson MLC**  
**Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST CONDITIONS OF WORKS APPROVAL W5787/2015/1 CONCRETE BATCHING PLANT LOT 2, 277 - 279 COLLIER ROAD BAYSWATER**

#### **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 conditions of a 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellants:</b>	City of Bayswater Sally Palmer Jamie Petrovic
<b>Works Approval Holder:</b>	Ransberg Pty Ltd trading as WA Premix
<b>Proposal description:</b>	Construction of a concrete batching plant on 277 - 279 Collier Road, Bayswater
<b>Minister's Decision:</b>	The Minister allowed the appeals in part
<b>Date of Decision:</b>	20 June 2017

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#### **REASONS FOR MINISTER'S DECISION**

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Pursuant to section 106(1)(b) of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Department of Environment Regulation (DER) on the matters raised in the appeals. The Minister was advised that the Office of the Appeals Convenor discussed the appeals with each appellant, and also discussed the issues raised with the works approval holder.

After considering the appeals, the Appeals Convenor reported to the Minister under section 109 of the EP Act. This report sets out the background and other matters relevant to the appeals.

While the Minister noted that two appellants objected to the grant of the works approval and sought for the instrument to be rescinded, as outlined in the Appeals Convenor's report, this

outcome is beyond the scope of an appeal which is limited to the conditions of the works approval. The Appeals Convenor advised that this was discussed with appellants, and the Minister therefore considered the grounds of appeal as they related to the conditions of works approval W5787/2015/1, specifically, noise monitoring and dust management.

In this context, the Minister noted that the premises were granted conditional approval from the State Administrative Tribunal (SAT) in 2014 and for an amended proposal in 2016. SAT imposed a number of conditions including, but not limited to, the hours of operation, boundary monitoring of ambient dust levels, and design measures incorporating additional controls to prevent dust and noise.

In regard to noise, the Minister understood there were concerns regarding the timing and extent of the monitoring required by the works approval, and whether the monitoring will capture the full extent of noise likely to be emitted from the premises, including noise from mobile aspects of operation such as delivery of materials and agitator trucks.

DER advised that the intent of Condition 2.1.2 is to require monitoring of maximum noise levels from the premises during operations, including fixed and mobile aspects of the plant. In this regard, DER expects the plant to be operating at typical production levels for the duration of the monitoring period. DER advised that while the duration of noise may change with increased production, the noise level generated at the premises during operation is unlikely to change.

The Minister also noted DER's advice that the noise modelling commissioned by the works approval holder included noise from fixed and mobile sources, and indicated that the premises can comply with the assigned noise levels in accordance with the *Environmental Protection (Noise) Regulations 1997*.

Having regard for the concerns raised on appeal relating to noise and DER's advice that the monitoring is intended to validate the results of the noise modelling and verify compliance with the Noise Regulations, the Minister was of the view that the wording of Condition 2.1.2 could be improved to better reflect this. The Minister therefore allowed this ground of appeal to the extent that Condition 2.1.2 and Table 3.1.1 be amended to explicitly reference the whole premises rather than noise from the plant only.

In relation to dust from the premises, while the grounds of appeal were not directly related to existing conditions of the works approval, the Minister noted the community's concerns about the impacts on nearby residents and considered this matter in the context of the adequacy of dust management.

In this regard, the Minister noted that there are a number of relevant regulatory instruments that require the management and monitoring of dust, including the *Environmental Protection (Concrete Batching and Cement Products Manufacturing) Regulations 1998* and the conditions imposed by SAT. In addition, the works approval holder has developed a dust management plan, and has proposed a number of dust control measures.

Notwithstanding, the Minister noted DER's advice that contemporary works approvals usually set out construction specifications to ensure that the premises is constructed with the controls and measures proposed in the application documentation. In this regard, the Minister noted that some of the infrastructure requirements specified in the works approval application documentation included measures to control dust.

As such the Minister allowed this ground of appeal to the extent that a table of infrastructure requirements, consistent with the works approval holder's application documentation, be

included on the works approval to provide some certainty in relation to the manner in which the plant is constructed.

The Minister otherwise dismissed the appeals.

The precise wording of any amended conditions will be a matter for DER to consider in giving effect to the Minister's decision under section 110 of the Act.

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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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