



Hon Albert Jacob MLA
Minister for Environment; Heritage

Our Reference: 003/16

Mr Chris Cornish
130 The Strand
BEDFORD WA 6052

Dear Mr Cornish

**APPEALS IN OBJECTION TO THE DECISION NOT TO ASSESS PROPOSED
CONCRETE BATCHING PLANT, COLLIER ROAD, BAYSWATER**

Thank you for your appeal in objection to the decision of the Environmental Protection Authority (EPA) not to assess the proposal by Ransberg Pty Ltd (the proponent) for the development of a concrete batching plant near the corner of Collier Road and Tonkin Highway, Bayswater. Your appeal was one of four appeals received.

Pursuant to section 106 of the *Environmental Protection Act 1986 (EP Act)*, I have obtained a report from the EPA on the matters raised in the appeals.

I am advised that representatives of the Office of the Appeals Convenor met with you as part of the investigation. I have received a report from the Appeals Convenor, a copy of which is enclosed for your information. This report sets out the background and other matters relevant to the appeal.

In summary, appellants raised concerns that the EPA's decision not to assess the proposal failed to take into account emissions of dust and noise, and failed to consider the risk that emissions would be higher than predicted given the capacity of the plant is significantly higher than that put forward by the proponent. Most appellants noted that the proposal location is nearby a sports reserve and residential area, and that the distance between the premises and these sites is less than stipulated in applicable EPA guidelines. Appellants also raised concerns about potential impacts to ground and surface water arising from the operations, as well as noting the strong level of public opposition to the proposal potentially justifying the proposal being formally considered by the EPA.

The EPA identified amenity, human health, and air quality as the 'preliminary environmental factors' relevant to the proposal, but concluded that its objectives for these factors could be met without the need for formal environmental impact

assessment. As a result, the EPA determined not to assess the proposal. I also note that the proposal has received planning approval through proceedings in the State Administrative Tribunal (SAT).

In relation to the capacity of the plant, the proposal considered by the EPA is for an average daily production of 135 m³ per day, with a possibility of producing up to 500 m³ per day, up to two days per year. While I note appellants' submissions that the plant has the capacity to produce much higher than the amount indicated by the proponent, the proposal referred to the EPA does not contemplate any production over 500 m³ per day, and the EPA is required to assess the proposal as referred. Should the proponent alter its plans, and wish to increase production beyond what it has put forward, it will need to ensure that such changes comply with relevant statutory obligations, including any applicable requirements under planning legislation and the EP Act.

On the separation distance for the proposal, the EPA acknowledged that the distance between the plant and sensitive receptors is less than the generic distance recommended in EPA policy. However, the policy provides that where the separation distances are not met, site and industry specific studies should be undertaken to demonstrate that the proposal will not result in unacceptable impacts. In this case, I understand that modelling on behalf of the proponent was undertaken, and was the subject of a peer review by the EPA. This additional information was sufficient for the EPA to conclude that the proposal would not result in unacceptable impacts offsite, with noise and dust levels meeting applicable criteria.

The EPA did not consider neighbouring industrial activities on industrial zoned land to be a sensitive receptor for the purposes of the separation distance policy. To the extent there is a land use conflict between different industrial land uses in the vicinity, this is considered to be a planning matter.

In relation to concerns raised in respect to dust, the proponent's information indicates that emissions of particulate matter of 10 micrometres in diameter (PM₁₀) may exceed the National Environmental Protection Measure (NEPM) for ambient air quality on two occasions per year, based on its stated maximum production of 500 m³ per day. Although this prediction is above the updated NEPM standard of zero exceedances per annum, the EPA advised that the predicted exceedances were unlikely to occur, and in any event, were less than two per cent above the standard of 50 µg/m³. As such, the EPA expects the proposal will meet relevant criteria when the plant is in operation. In its public advice given at the time of determining not to assess the proposal, the EPA also noted that the plant would be subject to regulation by the Department of Environment Regulation (DER) through consideration of a works approval.

In addition, I note that the proposal will be subject to the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* (Concrete Batching Regulations), which sets out a number of measures for controlling dust emissions for this type of industry. In relation to cement dust in particular, the Regulations require cement to be stored in bags or silos, the latter of which is required to be fitted with an air cleaning system through which all air from the silos must pass before being discharged to the environment. The Regulations

also provide that no visible dust escapes from the premises or onto any place where the public has access. These controls are in addition to occupational health and safety requirements applicable to the site, including requirements for the proponent to ensure it complies with relevant Safety Data Sheets in handling cement and other materials associated with the manufacture of concrete and cement.

Furthermore, the development approval issued by SAT contains detailed conditions relating to dust, including condition 6 which prescribes a limit on emissions of PM₁₀ measured at locations specified in that approval, as well as requirements for dust monitoring at the specified locations.

In respect to noise, the modelling undertaken by the proponent indicated that the plant will comply with the relevant assigned levels in the *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations). For this reason, the EPA was of the view that formal assessment of the proposal is not required, and breaches of noise levels will be subject to compliance and enforcement by local government and DER under the Noise Regulations. The development approval conditions issued by SAT also restrict hours of operation to 6am to 6pm Monday to Saturday, excluding public holidays.

Impacts to ground and surface water were also raised on appeal. The EPA did not identify such impacts as a preliminary environmental factor, and noted that the plant area would be sealed with either concrete or bitumen, and would incorporate appropriate truck washdown areas, the water from which would be used in the plant and not discharged to the environment.

Taking into account the information available to me, including the level of local interest, I consider the EPA was justified in determining not to assess the proposal. I note in particular that the proposal will need to meet detailed conditions relating to dust in the SAT approval, as well as meet statutory requirements under the Concrete Batching and Noise Regulations. It follows that I have dismissed the appeals. DER will consider any application for a works approval for the site, and in assessing the proposal, I anticipate that DER will take into account relevant environmental issues, including the issues raised in this appeal.

Thank you for bringing your concerns to my attention.

Yours sincerely



Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

encl.

19 AUG 2016