



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST AMENDMENT OF A LICENCE L4432/1989/14, PILBARA PORTS AUTHORITY, EASTERN OPERATIONS, PORT HEDLAND

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 102(3)(b) of the *Environmental Protection Act 1986* in objection to the amendment of a licence. 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:	Anderson UT Holdings Pty Ltd ATF Anderson Unit Trust, Hain FT Pty Ltd ATF Hain No.2 Family Trust and Michael Hain
Licence Holder:	Pilbara Ports Authority
Proposal description:	Licence L4432/1989/14 in relation to the Eastern Operations premises, Port Hedland
Minister's Decision:	The Minister dismissed the appeals
Date of Decision:	15 April 2019

REASONS FOR MINISTER'S DECISION

The premises are licensed under Category 58 of the *Environmental Protection Regulations 1987* and the licence holder accepts bulk materials onto the premises for export.

Prior to the amendment of the licence, the premises included the licence holder's Utah Point premises, and was authorised to handle copper concentrate at the Eastern Operations and manganese, chromite, iron ore at Utah Point, with all bulk materials delivered to the premises by road. At the Eastern Operations, copper concentrate is handled within enclosed sheds or containers before being loaded onto ships via covered conveyors.

In March 2018, the Department of Water and Environmental Regulation (DWER) amended the licence so that it applied only to the Eastern Operations for the handling of 560,000 tonnes per year of copper concentrate. That amendment also 'contemporised' the conditions and modified the premises boundary by increasing the storage space for rotainers. In April 2018, DWER further amended the licence to add 610,000 tonnes per year of spodumene concentrate as a bulk material to be handled at the premises.

The Minister noted that the appellant also appealed licence amendments applying to other premises in the port area, including the 290 million tonnes per annum operations of BHP Billiton Iron Ore Pty Ltd. In terms of relative size, the premises the subject of this appeal handles a significantly lower volume of the bulk materials handled by BHP Billiton Iron Ore within the port.

The appellant appealed the amendments to this premises, with particular reference to the risk to human health from dust emissions associated with the handling of bulk materials and the requirements applied to the licence to monitor and control dust generally.

The appeals were investigated by the Appeals Convenor on the Minister's behalf, which included meetings and further correspondence with the appellant, as well as feedback from DWER and the licence holder.

As noted in the Minister's determination of the appeals against the amendments of the licence applying to the BHP Billiton Iron Ore operations in Port Hedland, dust has been a matter of concern to residents and businesses in Port Hedland over a number of years, particularly in the West End.

In considering risks to human health from dust emissions associated with the amendments, DWER noted that the Department of Health (DoH) is the lead agency for public health, and the findings of the health risk assessment identified particles as PM₁₀ being the contaminant of most concern in Port Hedland. DoH recommended that an interim guideline for PM₁₀ of 70 micrograms per cubic metre averaged over 24 hours with up to 10 exceedances per year be applied within residential areas of Port Hedland.

DWER also noted that it took into account all current and available monitoring information, including results of the light detection and ranging (LiDAR) monitoring campaign.

In assessing the level of risk posed by dust, DWER took into account advice of DoH and concluded that dust emissions from the premises pose a 'medium' risk in terms of public health and amenity. This is a lower level of risk than was identified in respect to the BHP Billiton Iron Ore operations, which the Minister understood reflected the tonnages of bulk material handled at the premises, handling methods, off-site processing techniques using a wet process, and moisture content of products received. Taking this into account, the Minister considered DWER's risk assessment was appropriate and the risk rating justified.

The appellant raised multiple concerns about the adequacy of the conditions applied to the amended licence. This reflected the appellant's view that the conditions are inadequate to protect public health and the environment. Conditions the appellant questioned included those relating to the scope of the authorised emissions, management of dust control equipment and requirements relating to monitoring, management and reporting for moisture content and air quality. The full details of these concerns are outlined in the Appeals Convenor's report.

On review of the information available to the Minister, and particularly noting the scale of the operations the subject of the licence and the lower risk rating than compared to BHP Billiton Iron Ore's adjacent Nelson Point premises, the Minister considered that the conditions applied to the licence are appropriate to manage dust emissions from the premises. The Minister also noted that this proposal, along with the other bulk loading premises in the port area, are required to comply with the interim guideline for dust in residential areas east of Taplin Street.

It follows from the above that the Minister dismissed the appeals against the amendments.

DWER has oversight of the results of air quality monitoring in the area, and if the results indicate relevant standards are not being met, the Minister expects DWER to review the conditions applying to relevant premises within the port area, and apply additional requirements as necessary.

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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