



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEALS AGAINST CONDITIONS OF WORKS APPROVAL W6378/2020/1 ESPERANCE GAS-FIRED POWER STATION, 121 HARBOUR ROAD, CHADWICK**

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

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<b>Appellants:</b>	Janett Archer; Esperance Local Environmental Action Forum; Raana Scott; Nikki Starr
<b>Proponent:</b>	Contract Power Australia Pty Ltd
<b>Proposal description:</b>	To construct, install and commission eleven 2 megawatt (MWe) gas generators, three 1 MWe emergency diesel generators and two 2 MWe battery energy storage systems
<b>Minister's Decision:</b>	The Minister allowed the appeals in part
<b>Date of Decision:</b>	29 January 2021

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

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Four appeals were lodged against the conditions applied to the above works approval issued by the Department of Water and Environmental Regulation (DWER) to Contract Power Australia Pty Ltd (works approval holder).

The premises comprises of eleven 2 megawatt (MWe) gas generators, three 1 MWe emergency diesel generators and two 2 MWe battery energy storage systems. The works approval is for the construction of the premises and also includes time limited operations.

The key concerns raised by the appeals relate to air and noise emissions and protection of groundwater. Appellants also submitted that insufficient consultation had been undertaken with the Shire of Esperance.

Having considered the information available to him, including DWER's response to the appeals and the Appeals Convenor's report, the Minister was satisfied that the works approval conditions are generally appropriate.

However, in regard to noise, the Minister was of the view that the reporting requirements should be strengthened in relation to potential noise impacts. Therefore, he allowed the appeals to the extent that conditions are amended to require the works approval holder to submit the report and plan required by conditions 14, 15 and 16 to DWER within a reasonable timeframe. The Minister otherwise dismissed the appeals.

The Minister noted that appellants raised a number of matters relating to planning approvals, including the location of the power station, impacts associated with increased vehicle movements and transportation of fuel, however as these matters are not related to the conditions of a works approval, they were considered to be beyond the scope of the appeal.

### **Air emissions**

In relation to air emissions, DWER advised that modelling indicates that emissions will comply with the relevant National Environment Protection Measure criteria at sensitive receptors in proximity to the premises. The Minister was advised that during time limited operations, air monitoring will be undertaken to verify that the premises is operating as anticipated in the modelling, which will inform future regulation of the premises.

### **Noise emissions**

Regarding noise emissions, DWER acknowledged that modelling may have under-estimated potential noise impacts from the premises and that this was the basis for including conditions relating to noise emissions during time limited operations.

The Minister understood that the conditions are intended to verify that actual noise emissions from the premises comply with the *Environmental Protection (Noise) Regulations 1997* and provide a framework to require rectification works should it be shown that the premises is non-compliant.

While the Minister considered that the intent of the conditions as applied by DWER were appropriate to verify and rectify noise emissions from the premises to ensure that the community is not unreasonably impacted, he agreed with the Appeals Convenor that the reporting requirements could be improved to ensure the verification reports are provided to DWER in a timely manner to allow for proactive management should it be required.

The precise wording of these amendments will be determined by DWER in giving effect to the Minister's decision under section 110 of the *Environmental Protection Act 1986* (EP Act).

### **Protection of Groundwater**

In relation to groundwater, appellants raised concerns regarding impacts to the nearby Esperance Public Drinking Water Special Area. The Minister noted that DWER had assessed the risks to groundwater from the premises and found them to be low. The Minister understood that the works approval requires infrastructure controls to prevent discharge of hydrocarbons to the environment and also compliance reporting to verify that infrastructure has been installed/constructed in accordance with the relevant standard. During time limited operations the works approval also applies a limit on discharges to the stormwater drain for total recoverable hydrocarbons.

## **Consultation**

The Minister understood that concerns were raised regarding DWER's consultation with the Shire of Esperance. DWER has advised that it has undertaken its consultation in accordance with the EP Act and relevant DWER guidelines.

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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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