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Your ref 1266794

13 November 2025

The Hon John Carey MLA
Minister for Planning
Level 11, Dumas House
2 Havelock Street
WEST PERTH WA 6005

By email: minister.carey@dpc.wa.gov.au

Dear Minister

State Administrative Tribunal review – B&J Catalano Pty Ltd and Shire of Harvey – DR63/2022

- 1 I refer to your letter dated 20 October 2025 in relation to the above review (**Review**).
- 2 Your letter refers to a notice issued by the Environmental Protection Authority dated 5 September 2025 (**EPA's Notice**), to amend the Kemerton Strategic Industrial Area Strategic Proposal – Assessment No.2317 (**KSIA Strategic Proposal**), which affects Lot 7 Runnymede Road Wellesley (**Lot 7**), the land the subject of the Review, and invites the parties to the Review to review the EPA's Notice and make any further submissions.
- 3 We have reviewed the EPA's Notice and the KSIA Strategic Proposal, in both its original and amended forms.
- 4 The EPA's Notice is an approval under section 43A of the *Environmental Protection Act 1986 (WA)* for amendments to KSIA Strategic Proposal, which has been under assessment by the EPA since 2021.
- 5 Lot 7 is located at the very northern end of the area described in the KSIA Strategic Proposal as the Buffer, which is an area totalling 5,498ha surrounding the area described in the KSIA Strategic Proposal as the Core.
- 6 The original KSIA Strategic Proposal referred to clearing of up to 530ha of native vegetation within the 5,498ha Buffer to facilitate, amongst other things, "*limited basic raw materials extraction (sand) for fill requirements within the Core*". The information we have reviewed regarding the original KSIA Strategic Proposal does not identify what areas within the Buffer were proposed for clearing, or what areas were proposed for sand extraction.
- 7 Amongst other things, the amendments to the KSIA Strategic Proposal have reduced the total area that is proposed for clearing of native vegetation within the Buffer.
- 8 The amended KSIA Strategic Proposal now refers to clearing of no more than 9ha of native vegetation within the 5,498ha Buffer, and the reference to sand extraction within the Buffer (as part of the KSIA Strategic Proposal) has been deleted.

- 9 Figure 1 attached to the EPA's Notice still does not identify what areas within the Buffer are proposed for clearing, but does now identify "Strategic Proposal Exclusions" – and Lot 7 appears to be within these, identified as "Private Landholdings".
- 10 In light of the above, the EPA's Notice and the amendments to the KSIA Strategic Proposal support the granting of development approval for the extension of the existing, approved extractive industry carried out by B&J Catalano Pty Ltd (**BJC**) on Lot 7, on the basis that:
- (a) Lot 7 has now been identified as excluded from the KSIA Strategic Proposal.
 - (b) While the clearing of native vegetation that is proposed by the application for development approval the subject of the Review is unchanged at 1.17ha (and see below for further comments regarding this), within the Buffer of the KSIA Strategic Proposal, a much smaller area is now proposed to be cleared as part of the KSIA Strategic Proposal. The area within the Buffer that is proposed to be cleared has reduced from 530ha to 9ha – a reduction of 521ha of previously proposed clearing.
- 11 It is also relevant to note that the portion of Lot 7 that the Review relates to is immediately adjacent to an area which has also been excluded from the KSIA Strategic Proposal and which is identified on Figure 1 attached to the EPA's Notice as "Existing Environmental Approvals (assumed cleared of vegetation)". This area is the existing MRWA sand extraction area on Lot 21 Runnymede Road (**Lot 21**), which adjoins the existing, approved extraction area on Lot 7, as well as the area on Lot 7 that is the subject of the Review, and the area on Lot 7 further to the east of this.
- 12 To further illustrate the relationship between the existing, approved extraction area on Lot 7, the area on Lot 7 that is the subject of the Review, and adjoining MRWA extraction area on Lot 21, attached is an aerial photograph taken in December 2024 (obtained from the Landgate Mapviewer Plus website) showing part of Lot 4 and the adjoining part of Lot 7 (**Aerial Photo**). As to this:
- (a) The Aerial Photo clearly shows the areas on both Lot 4 and Lot 7 from which sand has been, and continues to be, extracted under existing approvals.
 - (b) The black line drawn on the Aerial Photo shows the existing, approved extraction area on Lot 4, including an area that extends east along the northern boundary of Lot 4 (adjacent to Lot 7) from the area from which sand has been extracted so far (**Approved Eastern Extension**).
 - (c) The red line drawn on the Aerial Photo shows the additional area which is the subject of the Review (**Review Area**).
 - (d) The application for approval for extraction within the Review Area was originally requested by the Gateway Alliance, in relation to the construction of the Bunbury Outer Ring Road (**BORR**). Extraction within both the Approved Eastern Extension, and the Review Area was intended to allow greater excavation to occur on Lot 7, by utilising the Approved Eastern Extension and the Review Area for the batter slope to the extraction on Lot 7, rather than the batter slope being accommodated on Lot 7.
 - (e) During the early construction of the BORR, sand was also required to be extracted at a significant rate from the approved extraction area on Lot 4, in particular to the north-eastern boundary of that extraction area, ultimately leaving a near-vertical batter slope as shown on the Aerial Photo.
 - (f) The construction plan for the BORR was later amended, resulting in less sand then being required from Lot 7, and the Gateway Alliance no longer having the same need to utilise the Approved Eastern Extension and the Review Area as referred to above. However, the Review Area (together with the Approved Eastern Extension) is still required for extraction to address the existing batter slope resulting from extraction of sand that occurred in the north-eastern corner of the extraction area on Lot 4 and also the adjoining area on Lot 7.

- 13 BJC otherwise refers to and reiterates the content of the various submissions and evidence that have been submitted on its behalf in support of the Review. In particular, BJC highlights:
- (a) the content of the Supplementary Witness Statement of Stephen Allering dated 1 August 2024, which addresses all of the relevant planning issues by reference to the provisions of the Shire of Harvey Local Planning Scheme No.2, and updates the information that was contained in Mr Allering's original Witness Statement dated 18 July 2022;
 - (b) the development approval that was granted by the Regional Joint Development Assessment Panel (**RDAP**) in October 2022 for an extractive industry on part of the nearby Lot 9 Runnymede Road, which involved the clearing of 7.64ha of native vegetation, and was approved by the RDAP, despite a recommendation of the Shire of Harvey for refusal, subject only to Advice Notes referring to the need for both Federal and State environmental approvals for the proposed clearing, which is referred to in paragraphs [10]-[14] of the Applicant's Supplementary Submissions dated 12 May 2023; and
 - (c) the draft conditions of approval dated 1 August 2024, prepared by Mr Allering and submitted at the same time as Mr Allering's Supplementary Witness Statement referred to above.

BJC respectfully requests that the Review now be determined as soon as practicable.

Yours faithfully
Thomson Geer



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