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Our ref JS:BJC-5007296
Your ref 1266794

20 March 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

I refer to previous correspondence and communications in relation to this matter.

By way of a brief history:

- September 2021: Application for development approval lodged by B&J Catalano Pty Ltd (**BJC**) with the Shire of Harvey (**Shire**) for approval for an expansion of BJC's existing approved extractive industry operation on Lot 7 Runnymede Road, Wellesley (**Lot 7**), to extract sand from an additional area of 1.17 hectares of Lot 7, immediately to the east of the existing approved extraction area (**Development Application**).
- 15 February 2022: Development Application refused by the Shire of Harvey (**Refusal**).
- 8 April 2022: Application lodged by BJC to the State Administrative Tribunal to review the Refusal (**Review**).
- 21 April 2022: Direction by Acting Minister for Planning The Hon Sue Ellery to the President of the State Administrative Tribunal under section 246(2)(a) of the *Planning and Development Act 2005* to refer the Review to the Minister for determination, on the basis that the Development Application raised issues of such State or regional importance that it would be appropriate for the Review to be determined by the Minister.
- 18 July 2022: Submissions lodged with the Minister on behalf of both BJC and the Shire.
- 11 August 2022: Responsive submissions lodged with the Minister on behalf of both BJC and the Shire.
- 17 March 2023: Email from Thomson Geer to the Minister's office, requesting an opportunity to provide further responsive submissions in light of several further developments.
- 27 April 2023: Letter from the Minister agreeing to above request.
- 16 May 2023: Supplementary submissions lodged with the Minister on behalf of BJC.

- 30 May 2023: Supplementary submissions lodged with the Minister on behalf of the Shire.
- 23 August 2023, 19 September 2023 and 3 October 2023: Emails from Thomson Geer to the Minister's office requesting an update as to the likely timing for determination of the Review. No reply was received.
- 27 May 2024: Matter raised informally with the Minister and Chief of Staff by a representative of Thomson Geer, and informal advice provided in response indicating that the appeal appeared to have been overlooked during a handover of matters following a change of staff within the Minister's office.
- 3 June 2024: Further Supplementary Submissions lodged with the Minister on behalf of the Shire, without prior notice or approval.
- 8 July 2024: Letter from the Minister's office to Thomson Geer enclosing the Further Supplementary Submissions received from the Shire on 3 June 2024, and requesting any further submissions in reply from BJC.
- 1 August 2024: Further submissions in reply lodged with the Minister on behalf of BJC.
- 3 October 2024: Email from the Minister's office stating that '*the assessment of the complete package will be finalised shortly and the Minister will receive a full briefing*'.

There has been no further communication received from the Minister's office since 3 October 2024.

It has now been almost 3 years since BJC's application to the State Administrative Tribunal to review the Refusal was called-in under section 246(2)(a) of the *Planning and Development Act 2005* on the basis that the application raised issues of State or regional importance.

Over that period of time, and due to the delay in the determination of the Review, BJC has been requested to withdraw, and has withdrawn, applications that it had also made for the environmental approvals required for the clearing of native vegetation associated with the 1.17 hectare expansion of the extractive industry operation the subject of the Development Application. Those approvals will still be required, and will be re-activated in the event of an approval of the Development Application by the Review, as provided for in the Applicant's Without-Prejudice Draft Conditions lodged on 1 August 2024,

BJC's operations on Lot 7, which comprise an important and scarce sand resource for use in both public works and private development in the south-west, as well as operations on part of the adjoining extractive industry facility operated by MRWA, have been and continue to be constrained pending the determination of the Review.

In light of the above, BJC respectfully requests that the Review now be determined as soon as practicable.

Yours faithfully
Thomson Geer



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