

Kwinana International Motorplex – Change to environmental conditions

Western Australian Sports Centre Trust

**Section 46 - Report and Recommendations
of the Environmental Protection Authority**

**Environmental Protection Authority
Perth, Western Australia
Bulletin 973
March 2000**

ISBN. 0 7309 8188 6
ISSN. 1030 - 0120

1. Introduction

This report to the Minister for the Environment is in response to a referral by the Minister pursuant to section 46(1) of the Environmental Protection Act (EP Act).

The referral relates to Environmental Conditions 7-1, 8-1, and 8-2 of Statement 531 issued by the Minister on 17 December 1999 setting out that the Kwinana International Motorplex proposal may be implemented. Condition 7 is about the preparation of a noise management plan and Condition 8 is about the requirement to undertake further individual fatality risk assessment.

The Minister received a letter from the Environmental Defender's Office (EDO) on 14 February 2000 which submitted that Conditions 7-1, 8-1 and 8-2 were not valid Conditions on the grounds that they lacked finality. On 21 February 2000 the Minister informed the EDO that she did not accept that the Conditions were invalid but that it was in the public interest that any uncertainty be resolved. Accordingly, the matter was referred to the Environmental Protection Authority (EPA) and the EPA was requested to "inquire into and report to me on whether conditions 7-1, 8-1 and 8-2 should be changed". The EP Act sets out in section 46(1) that the Minister shall seek the EPA to inquire into and report if changes to Environmental Conditions are contemplated.

The Minister set out in her letter to the EDO that any change which might be required to remove the uncertainty would not be a major change, and thus consideration under section 46(6) was not appropriate.

2. Context of the Report

The EPA reported to the Minister on the Kwinana International Motorplex proposal in September 1999, Bulletin 948. That report discussed in some detail the matters of noise and individual risk.

The EPA summarised its findings on noise on pages 9 and 10 and on individual risk on page 13 of Bulletin 948. The information provided in this report should not be interpreted in any manner as amending the EPA advice given in that Bulletin. In relation to both noise and individual risk, the EPA did not conclude that the proposal could meet the EPA's objectives. In particular, the EPA advised in Bulletin 948 that any activity which consistently and substantially exceeds the assigned noise levels pursuant to the noise Regulations may well be judged under section 49 of the EP Act to "unreasonably interfere with the health, welfare, convenience, comfort or amenity" of the people most closely exposed to the noise.

The Minister has considered the EPA report pursuant to section 45 of the EP Act and has determined that the proposal may be implemented subject to Environmental Conditions established by the Minister.

3. Report

This report is in two parts:

- (a) whether the Environmental Conditions 7-1, 8-1 and 8-2 should be changed; and
- (b) possible replacement Conditions if 7-1, 8-1 and 8-2 are to be changed.

3.1 Should the Environmental Conditions be changed?

The Environmental Defender's Office has submitted that Conditions 7-1, 8-1 and 8-2 "are void on the grounds that they lack finality".

Noise management plans

Recommendation 7 of the EPA Report (Bulletin 948) was that if a decision was taken that the proposal may be implemented, the approval should be subject to the conditions set out in Appendix 4 of the EPA Report. Appendix 4 included an Environmental Condition about a noise management plan.

With two exceptions, the Condition in Appendix 4 about noise is the same as that set out in the Minister's statement that the proposal may be implemented. The exceptions are (i) that the Kwinana Sport Management Committee was also to be a source of advice to the Minister, and (ii) that a footnote was added that the most recent exemptions of the Claremont Speedway and the Ravenswood International Raceway be considered in the development of the noise management plan.

Condition 7-1 of the Minister's statement sets out that the proponent shall prepare a Noise Management Plan to manage noise to the requirements of the Minister, and that *inter alia* the plan shall address noise limits at specified external locations. Noting that the Minister has determined that the proposal may be implemented, it could be argued that Condition 7-1 has the potential to lead to significant changes to the proposal to fulfil the Minister's requirements rather than provide detailed management arrangements which is the usual outcome of an Environmental Condition about management plans.

The requirement for management plans covering an array of matters, giving attention to management detail, is standard in most approval statements. That general requirement is not at issue. However, in the specific case of the Kwinana International Motorplex proposal, the condition that the management plan address noise limits at specified external locations to the requirements of the Minister could lead to some uncertainties as to outcome which are greater than that envisaged in the standard Environmental Conditions about management plans.

On balance, there is a case for changing Condition 7-1 in the Minister's Statement that the proposal may be implemented.

Individual fatality risk

Recommendation 7 of the EPA Report (Bulletin 948) was that if a decision was taken that the proposal may be implemented, the approval should be subject to the conditions set out in Appendix 4 of the EPA Report. Appendix 4 included an Environmental Condition about individual fatality risk.

Although the wording is not identical, the Condition in Appendix 4 about risk is similar in broad intent to that set out in the Minister's statement that the proposal may be implemented. The essential element of Condition 8-1 of the Minister's statement is that prior to construction of buildings the proponent shall carry out further individual fatality risk assessment to the requirements of the Minister to "demonstrate that the risk to patrons will meet acceptable levels".

Condition 8-2 follows on that the proponent shall incorporate the outcome of the risk assessment (which has to demonstrate that the risk to patrons will meet acceptable levels) into the design of the facility and into the development of the emergency response plan.

It could be argued that a requirement in Condition 8-1 to demonstrate through further risk assessment that the risk to patrons will meet acceptable levels could lead to some uncertainties as to outcome which are not usually envisaged in environmental conditions requiring the proponent to

undertake additional work as to matters of detail. Condition 8-2 is dependent on the outcome of Condition 8-1.

On balance, there is a case for changing Conditions 8-1 and 8-2 in the Minister's Statement that the proposal may be implemented.

3.2 Alternative wording consistent with the Minister's decision

If the Minister determines that Environmental Conditions 7-1, 8-1 and 8-2 are to be amended, wording needs to be found which removes the uncertainty but also gives effect to the Minister's decision that the proposal may be implemented. As set out in Section 2 of this report, the EPA did not conclude that the proposal could meet the EPA's objectives. Accordingly, information provided below should not be interpreted in any manner as amending the EPA advice given in that Bulletin.

Noise Management Plan

The Environmental Conditions to which the Minister's approval for the proposal to be implemented are subject includes a footnote about noise which draws attention to the recent exemptions of the Claremont Speedway and the Ravenswood International Raceway. Taking into account acceptable noise levels and the speedway and raceway exemptions, there are a number of possible options to setting noise levels. Option 1 would be to require the noise regulations to be complied with. Option 2 would be to permit comparable levels to those emitted at the existing Claremont Speedway and Ravenswood Raceway as reflected in the recent exemptions. Option 3 would be to take into consideration that the Motorplex is intruding into existing residential areas rather than being on ongoing operation with residential development around it as is the case for the Claremont Speedway and Ravenswood Raceway. The DEP advises that a penalty of 8 dB in noise levels allowed to be emitted from the operations would be appropriate in a case such as this where a substantial change in noise is being introduced into an existing residential area.

Based on option 2, Condition 7 could be considered for rewording as set out below. The reworded Condition provides a set of noise levels which are not to be exceeded for speedway and dragway racing at two nearby localities, taking into account distance from the Motorplex site and the effect of wind conditions.

7. Noise Management Plan

7-1 Prior to operation, the proponent shall prepare a Noise Management Plan to manage noise impacts on the amenity of nearby residents resulting from activities associated with the proposal, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority and the Kwinana Motor Sport Management Committee.

This Plan shall address:

1. noise mitigation measures;
2. noise monitoring and complaints procedures; and
3. limitations on the days and times of motor sport events.

Note 1: The most recent exemptions of the Claremont Speedway and the Ravenswood International Raceway should be considered in the development of the Noise Management Plan required by condition 7-1.

7-2 The proponent shall implement the Noise Management Plan required by condition 7-1.

7-3 The proponent shall make the Noise Management Plan required by condition 7-1 publicly available, to the requirements of the Environmental Protection Authority.

7-4 The proponent shall ensure that the Motorplex is operated in a manner such that:

- a) the noise level caused by race vehicles during speedway operations does not exceed:
 - (i) when measured at any point in the Kwinana Suburban Region:
 - A. the requirements prescribed by Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* for more than 21% of any four hour period; or
 - B. 63 dB $L_{A\ slow}$ at any time,and
 - (ii) when measured at any point in the Hope Valley Township:
 - A. the requirements prescribed by Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* for more than 21% of any four hour period; or
 - B. 75 dB $L_{A\ slow}$ at any time,and
- b) the noise level caused by race vehicles during drag strip operations does not exceed:
 - (i) when measured at any point in the Kwinana Suburban Region:
 - A. the requirements prescribed by Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* for more than 8.1% of any four hour period; or
 - B. 63 dB $L_{A\ slow}$ for more than 1.1% of any four hour period; or
 - C. 87 dB $L_{A\ slow}$ at any time,and
 - (ii) when measured at any point in the Hope Valley Township:
 - A. the requirements prescribed by Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* for more than 8.1% of any four hour period;
 - B. 75 dB $L_{A\ slow}$ for more than 1.1% of any four hour period; or
 - C. 99 dB $L_{A\ slow}$ at any time,

7-5 In condition 7-4.

- a) “Hope Valley Township” means [define by reference to map];
- b) “Kwinana Suburban Region” means [define by reference to map];
- c) “ $L_{A\ slow}$ ” has the same meaning as in the Regulations;

- d) “Measured” has the same meaning as in the Regulations;
- e) “Regulations” means the *Environmental Protection (Noise) Regulations 1997*.

If option 3 were adopted, then the noise values would be 8 dB less than those set out above.

Individual fatality risk

Noting that a decision has been made that the proposal may proceed, Environmental Condition 8 could be considered for rewording as set out below. Reference should be made to the EPA Guidance Statement on the assessment of individual risk.

8 Individual Fatality Risk

- 8-1 Prior to construction of buildings (ie prior to completion of earthworks), the proponent shall carry out further individual fatality risk management to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority and the Kwinana Motor Sport Management Committee, to identify risk scenarios which could affect the Motorplex site and predict the level of individual fatality risk to patrons.

The risk assessment shall include the risk associated with both near and far-field effects from established industry, recent industrial developments and the transport of dangerous goods in the Kwinana area.

Note 2: The risk assessment required by condition 8-1 should utilise data from existing quantitative risk assessments for industries within the Kwinana Industrial Area, to be provided by the Department of Minerals and Energy.

Note 3: Based on the result of the assessment required by condition 8-1, further conditions may be imposed.

4. Conclusion

This report is the response by the EPA to a request pursuant to section 46(1) of the EP Act that the EPA inquire as to whether Environmental Conditions 7-1, 8-1 and 8-2 of the Ministerial Statement of 20 December 1999 about the Kwinana International Motorplex should be changed.

The report concludes that there is a case for changing the Conditions, and provides some wording for consideration within the context that a decision has been made by the Minister that the proposal by the Kwinana International Motorplex may be implemented. However, the information provided in this report should not be interpreted in any manner as amending the EPA advice given in Bulletin 948.