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Published on: 3 December 2010

Statement No. 848

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

KWINANA EXPORT FACILITY, KWINANA

Proposal: The construction and operation of a port facility. The facility will consist of three components:

- 1 Marine component - a southern extension of the Bulk Cargo Jetty, an access jetty, an enclosed conveyor and a bulk material ship loader;
- 2 Terrestrial component - an automated rail car dumper, an enclosed conveyor, a storage shed and other infrastructure; and
- 3 Rail component - a rail line within the existing service corridor.

The rail and terrestrial components are located in the area bounded by Kwinana Beach Road, the Bulk Cargo Jetty access road, Wells Road and the shoreline at Kwinana Beach. The marine component is located in the ocean immediately south of the existing Bulk Cargo Jetty, as documented in schedule 1 of Statement 549.

Proponent: Fremantle Port Authority and Australian Rail Group

Proponent Address: Fremantle Port Authority, 1 Cliff Street, Fremantle WA 6160

Assessment Number: 1837

Previous Assessment Number: 1243

Previous Statement Number: Statement No. 549 (published on 13 July 2000)

Report of the Environmental Protection Authority: Report 1372

Previous Report of the Environmental Protection Authority: Bulletin 953

The implementation of the proposal to which the above reports of the Environmental Protection Authority relate is subject to the conditions and procedures contained in Ministerial Statement No. 549, as amended by the following:

1. Condition 10 – Time Limit of Authorisation

Condition 4 of Statement No. 549 is deleted and the following conditions inserted:

- “10-1 The proponent shall substantially commence implementation of the proposal by 13 July 2015.*
- 10-2 The proponent shall provide the Chief Executive Officer of the Office of the Environmental Protection Authority with written evidence which demonstrates that the proposal has substantially commenced on or before 13 July 2015.”*

2. Condition 11 – Compliance Reporting

Condition 5 of Statement No. 549 is deleted and the following conditions inserted:

- 11-1 The proponent shall prepare and maintain a compliance assessment plan to the satisfaction of the Chief Executive Officer of the Office of the Environmental Protection Authority.*
- 11-2 The proponent shall submit to the Chief Executive Officer of the Office of the Environmental Protection Authority the compliance assessment plan required by condition 11-1 at least six months prior to the first compliance report required by condition 11-6, or prior to implementation, whichever is sooner.*

The compliance assessment plan shall indicate:

- 1. the frequency of compliance reporting;*
 - 2. the approach and timing of compliance assessments;*
 - 3. the retention of compliance assessments;*
 - 4. the method of reporting of potential non-compliances and corrective actions taken;*
 - 5. the table of contents of compliance assessment reports; and*
 - 6. public availability of compliance assessment reports.*
- 11-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 11-1.*
- 11-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 11-1 and shall make those reports available when requested by the Chief Executive Officer of the Office of the Environmental Protection Authority.*
- 11-5 The proponent shall advise the Chief Executive Officer of the Office of the Environmental Protection Authority of any potential non-compliance within seven days of that non-compliance being known.*
- 11-6 The proponent shall submit to the Chief Executive Officer of the Office of the Environmental Protection Authority the first compliance assessment report fifteen months from the date of issue of this Statement addressing the twelve month period*

from the date of issue of this Statement and then annually from the date of submission of the first compliance assessment report.

The compliance assessment report shall:

- 1. be endorsed by the proponent's Chief Executive Officer or a person delegated to sign on the Chief Executive Officer's behalf;*
- 2. include a statement as to whether the proponent has complied with the conditions;*
- 3. identify all potential non-compliances and describe corrective and preventative actions taken;*
- 4. be made publicly available in accordance with the approved compliance assessment plan; and*
- 5. indicate any proposed changes to the compliance assessment plan required by condition 11-1.*

3. Condition 12 – Pile Driving

The following condition is inserted.

“12-1 The proponent shall apply the following pile driving management protocol for minimising impacts on cetaceans:

- 1. prior to the commencement of full power pile driving, implement soft start procedures that slowly ramp up the intensity of noise emissions over a period of no less than 15 minutes;*
- 2. a cetacean observation zone consisting of a one kilometre radius from the noise emitting source whereby an observer must undertake cetacean observation for a minimum of 15 minutes prior to the commencement of pile driving and during pile driving activities;*
- 3. a shutdown zone consisting of a 500 metre radius from the noise emitting source whereby (1) pile driving cannot commence should a cetacean be within the 500 metre exclusion zone; and (2) pile driving activities to cease should a cetacean enter the 500 metre exclusion zone during pile driving and are not to recommence until the animal(s) have moved outside the 500 metre exclusion zone; and*
- 4. Pile driving activities to take place during daylight hours only.”*

**JOHN DAY
MINISTER FOR PLANNING;
CULTURE AND THE ARTS;
ENVIRONMENT; YOUTH**