



Report and recommendations of the Environmental Protection Authority



**Establishment of an Industrial Park at
Meenaar 18 km east of Northam -
inquiry under s46 of the
Environmental Protection Act 1986
to remove the entire implementation
conditions and proponent commitments
of Ministerial Statement 293**

**The Industrial Lands Development Authority
(Landcorp)**

Report 1461

December 2012

ENVIRONMENTAL PROTECTION AUTHORITY
REPORT AND RECOMMENDATIONS TO THE MINISTER FOR
ENVIRONMENT

**ESTABLISHMENT OF AN INDUSTRIAL PARK AT MEENAAR 18 KM EAST
OF NORTHAM – INQUIRY UNDER SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986 TO REMOVE THE ENTIRE
IMPLEMENTATION CONDITIONS AND PROPONENT COMMITMENTS OF
MINISTERIAL STATEMENT 293**

The Minister for Environment has requested (6 March 2012) that the Environmental Protection Authority (EPA) inquire into and report to the Minister on Landcorp's proposed changes to the environmental conditions for the Avon Industrial Park (AIP).

The following is the EPA's Report and Recommendations (No. 1461) to the Minister pursuant to section 46(6) of the *Environmental Protection Act 1986* (EP Act).

Background

In November 1992, the Industrial Lands Development Authority (Landcorp) and the Department of State Development obtained authorisation to establish a heavy industrial estate (i.e. Rare Earth Mineral Processing – Wastewater Treatment and Disposal Systems) at Meenaar, 18km east of Northam under the *Environmental Protection Act 1986*. The approval conditions are specified in Ministerial Statement 293.

The conditions and commitments specified in Ministerial Statement 293 relate to requirements to be applied to subsequent proposals within the industrial park as well as compliance reporting on the implementation of these Conditions.

In November 2011, Landcorp wrote to the EPA seeking a review of the implementation conditions and proponent commitments of Ministerial Statement 293. Landcorp believes that since the AIP has been populated by light industry rather than heavy industry as was originally intended (i.e. Rare Earth Mineral Processing – Wastewater Treatment and Disposal Systems), the environmental risks and hazards associated with the Industrial Park are much lower than that originally assessed by the EPA in Bulletin 645. The

implementation conditions and proponent commitments therefore do not accurately reflect the current land use at the AIP and the conditions and commitments can be managed under other legislation and should be deleted from Ministerial Statement 293.

Assessment of the proposed removal of conditions and commitments

The environmental regulation of the Industrial Park at Meenaar under Part IV of the EP Act comprises a number of implementation conditions and proponent commitments. The EPA has reviewed Landcorp's Section 46 application and relevant implementation conditions and proponent commitments and supports the proposal that the implementation conditions and proponent commitments of Ministerial Statement 293 are either completed and no longer apply, or can be managed by another process and/or regulations. In making this decision, the EPA has consulted with the Shire of Northam and the Department of Environment and Conservation.

The Shire of Northam has agreed to:

- take over the management of the current developments within the AIP under the Shire's statutory processes; and
- manage future developments and decommissioning of any of the projects within the AIP through planning approval and under the provisions of its Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.

Industrial activities which constitute prescribed premises under Part V of the EP Act can be managed by Works Approval and Licence provisions administered by the Department of Environment and Conservation.

A summary of this Section 46 assessment is presented in Table 1, below.

EPA conclusion and recommendation

In view of the request by Landcorp and the advice received from DEC, and Shire of Northam, the EPA concludes that environmental regulation of the Avon Industrial Park can be managed through:

- planning approval processes and under the provisions of Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6 administered by Shire of Northam; and
- part V of the EP Act administered by DEC.

Having inquired into this matter, the EPA recommends to the Minister for Environment that:

1. It is appropriate to remove the entire implementation conditions and proponent commitments of Ministerial Statement 293.
2. After complying with section 46(8) of the EP Act, the Minister issues a statement of decision to remove the entire implementation conditions and proponent commitments from Ministerial Statement 293.

Table 1 Avon Industrial Park – Section 46 assessment of proposed changes

Existing Condition or Commitment	Assessment and Evaluation of Proposed Changes
<p>1 Proponent Commitments: The proponent has made a number of environmental management commitments in order to protect the environment: some of these are the responsibility of the proponent; others the responsibility of future occupiers of the separate industrial sites and are presented as Draft Environmental Criteria for Establishment of Industries at Industrial Park, Meenaar (See condition 3-1).</p> <p>1-1 In implementing the proposal, the proponent shall fulfil certain commitments (which are not inconsistent with the conditions or procedures contained in this statement) made in the Consultative Environmental Review and in response to issues raised following public submissions. The commitments are extracted from Appendix 1 of Environmental Protection Authority (EPA) Bulletin 645. (Appendix A of the Ministerial Statement 293).</p>	<p>Conditions 1 and 1-1 are comprised of several proponent commitments (as discussed in Appendix A of Statement 293), each part is discussed separately below:</p> <p>1) General: In accordance with this commitment the Avon Industrial Park (AIP) must be developed according to all relevant Government statues and agency requirements and to the satisfaction of the EPA. The Shire of Northam will manage future developments through planning approvals and under the provisions of its Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.</p> <p>This commitment can be deleted from the Statement.</p> <p>2) Buffer zone: In accordance with this commitment, the proponent will reasonably resolve environmental and social issues if they arise within a buffer zone of 2 km from the boundary of the industrial land in the estate, to the satisfaction of the Minister for the Environment. The Shire of Northam will manage the AIP, including the buffer zone, under the provisions of its Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.</p> <p>This commitment can be deleted from the Statement.</p> <p>3) Waste disposal: In accordance with this commitment, the proponent was required to initiate a study incorporating the Avon Community Development Foundation and Local shires to locate a suitable industrial waste site as soon as environmental approval or the Meenaar site has been received from the Minister for the Environment. A study was completed in November 2001 and the EPA (January 2002) declared the proponent to be fully compliant with this commitment.</p> <p>This commitment no longer applies and can be deleted from the Statement.</p> <p>4) Risks and Hazards: In accordance with this commitment the proponent committed to generate a model of the cumulative risk levels that are maintained within the guidelines established by the EPA in Bulletin 611. Since the AIP has been populated by light industry rather than heavy industry as was originally intended, the environmental risks and hazards associated with the Industrial Park are much lower than that originally assessed by the EPA in Bulletin 645. This commitment therefore, no longer applies and can be deleted.</p> <p>This commitment can be deleted from the Statement.</p>

Existing Condition or Commitment	Assessment and Evaluation of Proposed Changes
<p>2 Implementation: Changes to the proposal which are not substantial may be carried out with the approval of the Minister for the Environment.</p> <p>2-1 Subject to these conditions, the manner of detailed implementation of the proposal shall conform in substance with that set out in any designs, specifications, plans or other technical material submitted by the proponent to the EPA with the proposal. Where, in the course of that detailed implementation, the proponent seeks to change those designs, specifications, plans or other technical material in any way that the Minister for the Environment determines on the advice of the Environmental Protection Authority, is not substantial, those changes may be effected.</p>	<p>Landcorp reviews all proposed developments on lots sold against their Design Guidelines for the AIP, and if satisfied, writes a letter of endorsement to the Shire of Northam. The Shire will assess Development Applications and subsequently Building Applications through planning approvals and under the provisions of its Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.</p> <p>This Condition can be deleted from the Statement.</p>
<p>3. Subsequent Proposals: Draft criteria for establishment of industry at the industrial park are based on commitments provided by the proponent. These will not be the only requirements for industry to be located within the park; however, they should be used as a minimum standard.</p> <p>3-1 The proponent shall ensure that leases or transfers of land to occupiers/ purchasers within the industrial park are only made if the development proposed on that land can be shown to meet the</p>	<p>Condition 3 and 3-2 refer to the requirements for the subsequent developments throughout the AIP. Landcorp has been selling or leasing the land to new occupants and each contract of sale or lease to new owners or lessees at the estate contains the following clause in the Standard Conditions (Section 12 Compliance with Legislation); “<i>As from the date of the Contract the Buyer shall comply with and observe all provisions orders by –laws and regulations of and under any legislation in respect of or in any way affecting the Land</i>”. Landcorp also reviews all proposed developments on lots sold against their Design Guidelines for the AIP and if satisfied, writes a letter of endorsement to the Shire of Northam.</p> <p>Conditions 3 and 3-2 therefore can be deleted from the Statement.</p> <p>Condition 3-1 has several components (as per Appendix B of the Statement). As the AIP has been populated by light industry rather than heavy industry as was originally intended, the environmental risks and hazards associated with the Industrial Park are much lower than that assessed by the EPA in Bulletin 645, components 1 to 5 as listed below, therefore no longer apply and can be deleted.</p>

Existing Condition or Commitment	Assessment and Evaluation of Proposed Changes
<p>Draft Environmental Criteria for Establishment of Industries at Industrial Park, Meenaar as amended from time to time by the EPA (Appendix B of Statement 293).</p> <p>3-2 The proponent shall refer to the EPA all proposals for development within the industrial park.</p>	<ol style="list-style-type: none"> 1. General 2. Solid and Liquid Waste Management 3. Noise Limits 4. Atmospheric Emissions 5. Risks and Hazards 6. Decommissioning <p>In relation to decommissioning of any project within the AIP, the Shire of Northam will manage the process at planning approval stage under the provisions of the Shire of Northam Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.</p> <p>This Condition can be deleted from the Statement.</p> <p>Condition 3-2 has been addressed above under Condition 3 and can be deleted from the Statement.</p>
<p>4 Establishment of Management Committee: An Industrial Park Management Committee with appropriate Terms of Reference should be established.</p> <p>4-1 Within six months of any approval of this proposal under the provisions of the Environmental Protection Act, the proponent shall establish the Meenaar Industrial Park Management Committee with membership and Terms of Reference which meet the requirements of the Minister for the Environment on advice of the EPA.</p>	<p>These conditions refer to the establishment of Management Committee and its terms of reference which have been completed.</p> <p>Conditions 4 and 4-1 can be deleted from the Statement.</p>

Existing Condition or Commitment	Assessment and Evaluation of Proposed Changes
<p>5 Proponent: These conditions legally apply to the nominated proponent.</p> <p>5-1 No transfer of ownership, control or management of the project which would give rise to a need for replacement of the proponent shall take place until the Minister for the Environment has advised the proponent that approval has been given for the nomination of a replacement proponent. Any request for the exercise of that power of the Minister shall be accompanied by a copy of this statement endorsed with an undertaking by the proposed replacement proponent to carry out the project in accordance with the conditions and procedures set out in the statement.</p>	<p>This condition no longer applies because it is addressed by Section 38(6a) of the EP Act which states that if the person nominated as the proponent ceases to have responsibility for a proposal, that person is to give the EPA written notice advising the name of the person to whom or which responsibility for the proposal will pass or has passed.</p> <p>This Condition can be deleted from the Statement.</p>
<p>6 Time Limit on Approval: The environmental approval for the proposal is limited.</p> <p>6-1 If the proponent has not substantially commenced the project within five years of the date of this statement, then the approval to implement the proposal as granted in this statement shall lapse and be void. The Minister for the Environment shall determine any question as to whether the project has been substantially commenced. Any application to extend the period of five years referred to in this condition shall be made before the expiration of that period, to the Minister for the</p>	<p>As these conditions refer to the substantial commencement of the project, and the AIP is an established Industrial Estate, these conditions no longer apply.</p> <p>These conditions can be deleted from the Statement.</p>

Existing Condition or Commitment	Assessment and Evaluation of Proposed Changes
<p>Environment by way of a request for a change in the condition under section 46 of the Environmental Protection Act. (On expiration of the five year period, further consideration of the proposal can only occur following a new referral to the Environmental Protection Authority.)</p>	
<p>7 Compliance Auditing: In order to ensure that environmental conditions and commitments are met, an audit system is required.</p> <p>7-1 The proponent shall prepare periodic "Progress and Compliance Reports", to help verify the environmental performance of this project, in consultation with the Environmental Protection Authority.</p>	<p>While Landcorp can no longer provide the compliance report because it has been selling or leasing the land at the AIP, and the Park has not been developed as a heavy industrial area, each contract of sale or lease to new owners contains the following clause in the Standard Conditions (Section 12 Compliance with Legislation); <i>"As from the date of the Contract the Buyer shall comply with and observe all provisions orders by –laws and regulations of and under any legislation in respect of or in any way affecting the Land"</i>. After the sale/ lease of the land, the Shire of Northam will manage the current and future developments within the AIP through their planning approval process and under the provisions of Town Planning Scheme No. 3 and forthcoming Local Planning Scheme No. 6.</p> <p>This Condition can be deleted from the Statement.</p>

RECOMMENDED ENVIRONMENTAL CONDITIONS

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

Proposal: Establishment of an Industrial Park at Meenaar
Proponent: The Industrial Lands Development Authority (Landcorp)
Proponent Address: Level 6, Wesfarmers House, 40 the Esplanade, Perth WA
6849

Assessment Number: 1928

Previous Assessment Number: 705

Report of the Environmental Protection Authority: 1461

Previous Report of the Environmental Protection Authority: 645

Previous Statement Number: 293

The implementation of the proposal to which the above report of the Environmental Protection Authority relates is subject to the conditions and procedures contained in Ministerial Statement No. 293, as amended by the following:

1. Implementation Conditions 1 to 7 and Proponent Commitments 1 to 4 are deleted.

**HON BILL MARMION MLA
MINISTER FOR ENVIRONMENT; WATER**