



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF CLEARING PERMIT CPS 7176/1 MCKINLEY ROAD SAND EXTRACTION PROJECT CITY OF WANNEROO

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(1)(b) of the *Environmental Protection Act 1986* in objection to the conditions applied to clearing permit CPS 7176/1. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	Hanson Construction Materials Pty Ltd
Permit Holder:	Hanson Construction Materials Pty Ltd
Proposal description:	Clearing Permit CPS 7176/1 authorises the clearing of up to 600 hectares of native vegetation within an Application Area of 2,311.86 hectares for the purpose of mining at the McKinley Road Sand Mine, in the City of Wanneroo.
Minister's Decision:	The Minister allowed the appeal in part.
Date of Decision:	12 January 2018

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Department of Mines, Industry Regulation and Safety (the Department) on the matters raised in the appeal. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

The Minister was advised that the Appeals Convenor met with the appellant to discuss the appeal and also visited a similar mine operated by Hanson Construction Materials Pty Ltd (Hanson), located on the Swan Coastal Plain.

The Minister noted that the appellant sought an amendment to the conditions relating to the duration of the permit and the limitation applied to the amount of clearing, specifically that the duration be extended from 20 years to 42 years and the area be increased from 600 hectares (ha) to 2,311.86 ha, as per the original application.

By way of summary, the Minister understood the grounds of appeal were that the Department's application of the conditions relating to the duration of the permit and the amount of clearing are arbitrary, unnecessary and not related to environmental protection.

In relation to the duration of the permit, the Minister understood that the Department applied the 20 year duration to align with the term of the Mining Lease (70/1316), being 21 years. In this regard, the Minister agreed with the Appeals Convenor that the Department was justified in aligning the duration of the permit with the duration of the Mining Lease and that this is a relevant 'other matter' for the purposes of section 51O of the Act.

In deciding the amount of clearing authorised by the permit, the Minister understood that the Department considered the indicative schedule of mining for the first 20 years of the project, as described in the Mining Proposal available at that time, and the environmental values of the area. In that regard, the Department considered that granting a permit to clear 2,311.86 ha would not allow for an accurate assessment of the value of the regrowth vegetation prior to clearing. The Department advised that it considered that 600 ha would allow the proposed activities to be undertaken while allowing for the assessment of future values of the vegetation at an appropriate time.

However, having considered all of the information presented, particularly that this proposal does not include clearing of the existing pine plantation, that mining will be staged to limit clearing to the rate of mining and allow for progressive rehabilitation, and that the plan for mine closure is to progressively rehabilitate the mined areas to a standard consistent with Banksia woodland (a vegetation complex of conservation significance to the Carnaby's black cockatoo), the Minister decided to allow the appeal in part by increasing the area permitted to be cleared to 1,000 ha.

The Minister noted that Hanson has a proven track record in the rehabilitation of mining on the Swan Coastal Plain and received the 2017 Golden Gecko award for research in this area, which he commended.

The precise wording of the amendment will be determined by the Department in giving effect to the Minister's decision under section 110 of the Act.

As advised by the Department, the current approval does not preclude the permit from being amended at a later date to extend the permit duration and/or increase the area for authorised clearing. The Minister noted that any future application will be subject to a fresh assessment of the environmental values of the vegetation present at the time of the application. The Minister otherwise dismissed the appeal.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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