



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST DECISION OF THE ENVIRONMENTAL PROTECTION AUTHORITY NOT TO ASSESS MCKINLEY ROAD NEERABUP SAND EXTRACTION WITHIN GNANGARA PINE PLANTATION, CITY OF WANNEROO

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 100(1)(a) of the *Environmental Protection Act 1986* in objection to the Environmental Protection Authority's decision not to assess a proposal. 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:	Rocla Pty Ltd
Proponent:	Rocla Pty Ltd
Proposal description:	Sand quarry (excavation area of 1,979 hectares (ha)) within the 2,922 ha McKinley Road Neerabup Project Area (Mining Tenement M70/1316)
Minister's Decision:	The Minister dismissed the appeal
Date of Decision:	1 July 2015

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Environmental Protection Authority (EPA) 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 understood that representatives of the Office of the Appeals Convenor met with the proponent on a number of occasions as part of its investigation. The Minister understood that the Appeals Convenor sought additional advice from the EPA, the Department of Parks and Wildlife (Parks and Wildlife), the Department of Mines and Petroleum (DMP) and the Forest Products Commission.

The Minister understood that the key concerns raised by the appeal relate to the potential for the proposal, if implemented, to have a significant impact on the environment; and that the existing regulatory processes are incapable of adequately regulating the entirety of the proposal.

The Minister noted that the proponent also provided information in support of the strategic importance of this proposal in terms of the continued supply of basic raw materials and that the proponent submits that the likelihood of significant constraints on basic raw material supply is a fundamental public interest concern.

To address these concerns, the proponent requested that the proposal be remitted to the EPA for formal assessment.

In making its decision on whether or not to assess the proposal, the EPA advised that the proposal was not so significant as to warrant formal environmental impact assessment under the Act. The EPA also advised that the potential environmental impacts from the proposal can be adequately evaluated, regulated and mitigated by the DMP, Parks and Wildlife and the Department of Water to meet the EPA's objectives for the environmental factors identified for the proposal.

The Minister understood that the EPA also considered the findings of the study of natural regeneration of cleared pine plantations in Nowergup that was commissioned by the proponent and noted that, notwithstanding the limitations of the method used, the study concluded there is some potential for native vegetation regrowth to occur in cleared pine plantation areas over time and that native vegetation may become foraging habitat for the Carnaby's cockatoo. The EPA advised that in its application of the 'significance test' the presence of other statutory decision-making processes which can regulate the mitigation of the potential effects on the environment to meet the EPA's objectives and principles was considered.

The Minister noted that the proposal area falls within the Strategic Assessment of the Perth-Peel Region under the *Environment Protection and Biodiversity Conservation Act 1999* and that it is the EPA's expectation that the proponent will consult with the Department of the Premier and Cabinet and relevant Decision-Making Authorities in the development of its mining proposal and mine closure plan to align with the objectives and outcomes of the Strategic Assessment.

Overall, having considered the matters raised in the appeal, the EPA's advice and the Appeals Convenor's report, the Minister formed the view that the decision of the EPA not to formally assess the proposal under Part IV of the Act was justified. On this basis the Minister 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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