



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST DECISION OF THE ENVIRONMENTAL PROTECTION AUTHORITY NOT TO ASSESS LIMESTONE AND SAND EXCAVATION LOTS 1001 AND 1002 PRESTON BEACH ROAD, PRESTON BEACH, SHIRE OF WAROONA

Purpose of this document

This document sets out the Minister's decision on appeals 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.

Appellants:	Waterbird Conservation Group (Inc.), M. Whitehead and Associate Professor R. Vogwill, and the Peel-Harvey Catchment Council (Inc.)
Proponent:	Doyles Lime Services Pty Ltd
Proposal description:	Limestone and sand excavation on Lots 1001 and 1002 Preston Beach Road North, Preston Beach, Shire of Waroona
Minister's Decision:	The Minister allowed the appeals
Date of Decision:	17 September 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 appeals. The Minister noted that the Office of the Appeals Convenor met with the proponent to discuss the appeals and held discussions with the appellants.

After considering the appeals, the Appeals Convenor reported to the Minister under section 109 of the Act. This report sets out the background and other matters relevant to the appeals.

The Minister understood that the key concern raised in the appeals was the risk of significant impacts to the hydrology and water quality of Lake Pollard and the consequent effect on lake ecology. The Minister understood that concerns were also raised through the appeals with regard to potential impacts to subterranean fauna and amenity values.

The Minister noted that there was also concern that the EPA's decision is inconsistent with strategic environmental advice including EPA Report 1359 *Strategic Environmental Advice on the Dawesville to Binningup Area*, and that the proposal should be referred for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to potential impacts to matters of national environmental significance.

The Minister understood that in making its decision not to assess the proposal the EPA had regard to EPA Environmental Assessment Guidelines and considered that the likely environmental effects of the proposal were not so significant as to warrant formal assessment, and concluded that the potential impacts could be effectively dealt with through other statutory decision-making processes. However, upon consideration of additional information presented through the appeal process, the EPA advised that given the uncertainties about hydrological predictions and monitoring and management, the EPA would support the proposal (as referred) being remitted to the EPA for assessment. The EPA further advised that a scaled back proposal, with a review of the proponent's hydrological information and development of monitoring, trigger criteria and contingency measures would reduce the uncertainty in relation to potential impacts to hydrology and water quality.

Given the uncertainty with respect to the significance of potential impacts to the hydrology and ecology of Lake Pollard, the Minister was of the view that the proposal (as referred) be remitted to the EPA for assessment.

In relation to potential impacts to subterranean fauna, the EPA advised that limestone within the area is geologically young and has low potential for the development of widespread karst features, reducing the potential for habitats for karst dependent fauna. The EPA also advised that, notwithstanding its advice in relation to hydrological processes and inland waters environmental quality, it considers that subterranean fauna is unlikely to be significantly impacted by the proposal. The Minister was therefore satisfied that the EPA had appropriately assessed this matter and agreed that subterranean fauna was unlikely to be significantly impacted by the proposal.

With regards to the attainment of policy objectives, including strategic environmental advice outlined in EPA Report 1359, the Minister agreed with the Appeals Convenor that these are matters to be considered by the EPA during further assessment of the proposal.

In relation to potential impacts to amenity and relating to the upgrade of road infrastructure required to access the proposal area, the Minister was satisfied that the EPA has taken these matters into consideration in its assessment of the proposal. The Minister was of the view that these matters can be assessed, managed and regulated through other statutory decision-making processes.

With regard to concerns that the proposal should be referred for assessment under the EPBC Act, the Minister was advised by the EPA that the Commonwealth Department of the Environment is automatically notified of all new referrals through the EPA seven day public comment period process.

Taking into account the foregoing, the Minister was of the view that it is appropriate for the proposal to be remitted to the EPA and allowed the appeals to the extent that, pursuant to section 101(1)(c) of the Act, the proposal is remitted to the EPA for assessment.

Nothing in the decision on the appeals should be taken to imply that the Minister formed a view about the environmental acceptability of the proposal. Rather, the Minister's decision reflects the view that there is sufficient uncertainty with respect to the environmental factors hydrological processes and inland waters environmental quality that it is appropriate for the proposal to be remitted for assessment.

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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