



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS – YOONGARILLUP MINERAL SANDS PROJECT

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 100(1)(d) of the *Environmental Protection Act 1986* in objection to the Environmental Protection Authority's Report and Recommendations in respect to the above 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:	Busselton Water; Busselton-Dunsborough Environment Centre; F Wood; J & J George; L Korovesi; Hon Libby Mettam MLA; Margaret River Regional Environment Centre Inc; R Collet; S & E Chidgey; S Smith; South-west Forests Defence Foundation Inc; W Slee; and H Jones.
Proponent:	Doral Mineral Sands Pty Ltd
Proposal description:	To develop, mine, rehabilitate and decommission the Yoongarillup Mineral Sands Mine, approximately 17 kilometres south east of Busselton.
Minister's Decision:	The Minister allowed the appeals in part.
Date of Decision:	12 April 2016

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 appeals covered a broad range of matters that have been summarised under nine grounds of appeal related to flora and vegetation; fauna; groundwater and surface water; amenity; acid sulphate soils; rehabilitation; offsets; previous decisions of EPA, policy and guidance documents; and stakeholder consultation and availability of environmental management plans. These matters are discussed in detail in the Appeals Convenor's report. In summary, the Appeals Convenor recommended that five of the nine appeal grounds be

allowed in part by amending some of the conditions recommended by the EPA. The Appeals Convenor recommended that the remaining four grounds be dismissed.

After considering all of the information presented with respect to the appeals, the Minister was of the view that the EPA has adequately considered the key environmental factors identified by it in its assessment of the proposal and that this assessment was consistent with section 44 of the Act.

Consistent with the advice of the EPA, the Minister was also of the view that the presence of an established regulatory framework under Part V of the Act provides confidence that potential noise and dust impacts from the proposal, as raised in the appeals, can be appropriately managed.

However, having had regard for the information presented as part of the appeal investigation and for the reasons set out in the Appeals Convenor's report, the Minister allowed the appeals to the extent that the following conditions recommended by the EPA are amended as follows:

1. To clarify the intention of Condition 5 that information relevant to the proposal is to be made publicly available, the title of Condition 5 is amended to '*Public Availability of Data and Plans*' and the words '*and plans*' be included on Line 4 of sub-condition 5-1 after the following phrase '*...all validated environmental data*';
2. Noting the key role of the Department of Water (DoW) in the assessment, monitoring and compliance of potential impacts from dewatering activities, Condition 6 is amended to require consultation with DoW during the preparation of a Flora and Vegetation Monitoring Plan, in addition to Parks and Wildlife;
3. Given the intent of Condition 7 relates to the clearing, management and rehabilitation of the State Forest Area A throughout the life of the operations in this area, the title of Condition 7 '*Clearing and Rehabilitation of State Forest*' and the '*Clearing and Rehabilitation Plan*' referred to in Condition 7 should be amended to '*State Forest - Area A*' and '*State Forest – Area A Management Plan*' respectively to clarify this intent;
4. Noting appellants concerns regarding clearing operations and potential impacts to terrestrial fauna (including black cockatoos) an additional condition is included at Condition 7 to reflect the proponents' commitment to have a qualified spotter on-site during the clearing operations to inspect potential terrestrial fauna habitat areas prior to clearing and retrieve fauna if necessary;
5. Noting appellants' concerns related to uncertainty of the combined potential breeding season for the three species of black cockatoo, Condition 7-2(2) is amended to remove the reference to specific breeding months in the manner proposed by the EPA;
6. To provide certainty regarding the objective of the offset, Condition 8-1 is amended to provide that the proponent undertakes an offset with the objective of counterbalancing the significant residual impact to 8.9 ha of the Whicher Scarp Forest Ecosystem, including impacts to foraging and breeding habitat for *Calyptorhynchus banksii naso* (Forest Red-tailed Black-Cockatoo), *Calyptorhynchus baudinii* (Baudin's Black-Cockatoo) and *Calyptorhynchus latirostris* (Carnaby's Black-Cockatoo), the DRF *Davesia elongata* subsp. *elongata*, Priority Ecological Community Whicher Scarp FCT C1 and the high diversity community of the Whicher Scarp Forest Ecosystem;
7. With regard to appellants' concerns regarding the duration of potential groundwater drawdown impacts, the life of mine of three years be added to Schedule 1 (Table 2); and
8. As the proposal will require a groundwater abstraction licence from DoW, a groundwater abstraction element be included into Schedule 1 (Table 2).

The Minister otherwise dismissed the appeals.

The precise wording of conditions and any subsequent amendments to conditions are matters for the EPA's consideration and will be finalised through the process of consulting with relevant decision makers under section 45 of the Act.

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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