




Report and recommendations of the Environmental Protection Authority



**Southern extension of sandpit,
Calinup Road, Gelorup, Shire of Capel
— inquiry under s46 of the
Environmental Protection Act 1986
to amend Ministerial Statement 767**

Cotton Holdings Pty Ltd

Report 1507

April 2014

ENVIRONMENTAL PROTECTION AUTHORITY
REPORT AND RECOMMENDATIONS TO THE MINISTER FOR
ENVIRONMENT

**SOUTHERN EXTENSION OF SANDPIT, LOT 2 CALINUP ROAD,
GELORUP, SHIRE OF CAPEL – INQUIRY UNDER SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986 – AMENDMENT TO
CONDITIONS 3 AND 9 OF MINISTERIAL STATEMENT 767 (ASSESSMENT
NO. 1966)**

The Minister for Environment has requested (5 February 2013) that the Environmental Protection Authority (EPA) inquire into and report on the matter of amending conditions 3-1 and 3-2 to extend the 'Time Limit of Authorisation' and condition to 9-3(2)(a) of Ministerial Statement 767 relating to the timing of the commencement of rehabilitation in the northern portion of Lot 2 Calinup Road, Gelorup.

The following is the EPA's Report and Recommendations (No. 1507) to the Minister pursuant to section 46(6) of the *Environmental Protection Act 1986* (the EP Act).

Background

The proponent, Cotton Holdings Pty Ltd, has approval for the clearing of native vegetation and excavation of sand at the southern portion of Lot 2, Calinup Road, Gelorup. The total area of native vegetation cleared will not exceed 19 hectares (ha). The area to be cleared will be progressively rehabilitated with native vegetation.

The proposal requires remedial earthworks and rehabilitation to be carried out on an area of approximately 16 ha on the northern portion of Lot 2, Calinup Road, and also includes the placing of perpetual conservation covenants on portions of Lot 2 Calinup Road and Lot 268 Kilpatrick Road, Gelorup (Certificate of Title volume 1319 folio 4) as described in Figures 1 and 2 of Ministerial Statement 767.

Cotton Holdings Pty Ltd obtained approval for the implementation of the proposal under the *Environmental Protection Act 1986* (EP Act) in April 2008 following assessment of the proponent's Public Environmental Review (PER) document.

Proposed changes to conditions

Condition 3-1 and 3-2 requires the proponent to substantially commence the proposal within five years after the date of issue of the Ministerial Statement; that is, by 15 April 2013. The proponent has requested an extension of the 'Time Limit of Authorisation' by three years, to 15 April 2016.

Condition 9-3(2)(a) of Ministerial Statement 767 requires that rehabilitation in the northern portion of Lot 2, which was previously cleared and excavated, to commence within two years of the date of the Statement (ie by 15 April 2010) and cover the whole of the northern portion, with allowance for building envelopes and access roads.

The rehabilitation of the northern portion of Lot 2 has not yet commenced.

The proponent has proposed that the time limit for commencement of rehabilitation be removed as this time has lapsed and has proposed that rehabilitation in the northern portion of Lot 2 commence "prior to commencement of clearing of vegetation or excavation of sand (whichever is sooner)" in the southern portion of Lot 2.

Accordingly, the Minister has requested, pursuant to section 46 of the EP Act, that the EPA inquire into and report on the matter of changing conditions 3 and 9 of Ministerial Statement 767.

Assessment of the proposed changes to conditions

In assessing the Southern Extension of Sand Pit, Calinup Road, Gelorup; the EPA considered the following environmental factors as relevant to the proposal and requiring detailed evaluation in its Report and Recommendations (Bulletin 1194, August 2005):

- (a) Vegetation and flora;
- (b) Fauna; and
- (c) Rehabilitation.

The proponent has advised that there are no additional impacts from the proposed changes to vegetation, flora and fauna. Therefore, for the purposes of this assessment (Assessment 1966) the key environmental factors identified (in accordance with *Environmental Assessment Guideline for Environmental factors and objectives – EAG No. 8*) are the "Integrating Factors" of 'Offsets' and 'Rehabilitation and Closure'.

Offsets

The EPA's objective for Offsets is to *counterbalance any significant residual environmental impacts or uncertainty through the application of offsets.*

The original conditions for the proposal were modified via appeal, such that the Minister formed the view that the proposed development was unlikely to have a significant impact on the environment provided appropriate conditions were put in place relating to rehabilitation of the sandpit during and after

mining and provided appropriate offsets are put in place which protect the values of other threatened vegetation in perpetuity.

Given the values of the vegetation to be covenanted, it is important that the covenants remain in place so that the value of the offsets is not lost in the intervening timeframe prior to commencement of the project.

The proponent has advised that the conservation covenants will be put in place for the two identified areas (totalling no less than 39 ha) prior to clearing of native vegetation. The proponent has been waiting to ensure that all project approvals can be obtained to secure the future of the project prior to undertaking the significant financial commitment of establishing the conservation covenants.

Rehabilitation

The EPA's objective for Rehabilitation and Closure is to *ensure that premises are closed, decommissioned and rehabilitated in an ecologically sustainable manner, consistent with agreed outcomes and land uses, and without unacceptable liability to the State.*

The EPA considers that the proposed change to condition 9-3(2)(a) should not affect the EPA's rehabilitation objectives and outcomes required by conditions 9 (parts 1 to 11). The EPA considers that the proposed change also has significant merit in that, under the original condition, sand extraction in the southern portion of Lot 2 could have commenced prior to commencement of rehabilitation in the northern portion of Lot 2, whereas under the proposed change, rehabilitation in the northern portion of Lot 2 Calinup Road would commence prior to clearing of vegetation or commencement of sand excavation. This change is also consistent with the proponent's proposal to rehabilitate the sandpit progressively over the life of the extraction.

EPA conclusions and recommendations

The EPA considers that the environmental factors of the proposal have not changed significantly from those presented in the PER and as assessed by the EPA in Report 1194 (August 2005), and no new significant environmental factors have arisen since the EPA's assessment of the proposal.

The EPA concludes that its objectives would not be compromised through amendment to conditions 3-1 and 3-2 to extend the 'Time Limit of Authorisation' by three years, to 15 April 2016; and by amending condition 9-3 (2)(a) to allow rehabilitation to commence prior to clearing of vegetation or sand excavation.

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment:

1. That it is appropriate to amend implementation conditions 3-1, 3-2 and 9-3(2)(a) of Ministerial Statement 767; and

2. That after complying with section 46(8) of the *Environmental Protection Act 1986*, the Minister issues a statement of decision to change implementation conditions 3-1, 3-2 and 9-3(2)(a) of Ministerial Statement 767 in the manner provided for in the attached recommended statement.

MIN2013-0187

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: Southern Extension of Sandpit, Lot 2 Calinup Road,
Gelorup, Shire of Capel

Proponent: Cotton Holdings Pty Ltd
ACN 009 198 887

Proponent Address: 26 Spencer Street, BUNBURY WA 6230

Assessment Number: 1966

Previous Assessment Number: 1301

Report of the Environmental Protection Authority: 1507

Previous Report of the Environmental Protection Authority: 1194

Previous Statement Number: 767

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. 767, as amended by the following:

1. Conditions 3-1 and 3-2 of Ministerial Statement 767 are deleted and replaced with:

3 Time Limit of Authorisation

3-1 The proponent shall not commence implementation of the proposal after the 15 April 2016, and any commencement, prior to this date, must be substantial.

3-2 Any commencement of implementation of the proposal, on or before 15 April 2016, must be demonstrated as substantial by providing the Chief Executive Officer* with written evidence, on or before 15 April 2016.

2. Condition 9-3 (2)(a) of Ministerial Statement 767 is deleted and replaced with:

9-3 The Rehabilitation Plan shall address short and long term activities, and shall meet the following criteria:

2. In relation to the northern area:

a. The area of rehabilitation in the northern portion of Lot 2 shall be commenced prior to the commencement of clearing of vegetation or excavation of sand (whichever is sooner) in the southern portion of Lot 2, and cover the whole of the northern portion, with allowance for building envelopes and access roads;

* The Chief Executive Officer of the Department of the Public Service which is responsible for the administration of section 48 of the *Environmental Protection Act* 1986, or his delegate.

Albert Jacob MLA

MINISTER FOR ENVIRONMENT; HERITAGE