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Published on 15 April 2008

Statement No. 767

**STATEMENT THAT A PROPOSAL MAY BE IMPLEMENTED
(PURSUANT TO THE PROVISIONS OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

**SOUTHERN EXTENSION OF SAND PIT, LOT 2 CALINUP ROAD
GELORUP, SHIRE OF CAPEL**

Proposal: The clearing of native vegetation and excavation of sand at the southern portion of Lot 2, Calinup Road, Gelorup (Certificate of Title volume 1356 folio 756). The total area of native vegetation being cleared will not exceed 19 hectares. The area to be cleared will be progressively rehabilitated with native vegetation.

In addition, remedial earthworks and rehabilitation will be carried out on the northern portion of Lot 2, Calinup Road. A total area of approximately 16 hectares at the northern end of Lot 2, Calinup Road will be rehabilitated.

The proposal 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.

Proponent: Cotton Holdings Pty Ltd t/as APH Contractors (ACN 009 198 887)

Proponent Address: 26 Spencer Street, BUNBURY WA 6230

Assessment Number: 1301

Report of the Environmental Protection Authority: Bulletin 1194

Ministerial appeal determination: 179 of 2005

The Environmental Protection Authority recommended that the above proposal not be implemented. Following consideration of an appeal, the Minister requested the CEO to draft conditions for consultation with other decision making authorities pursuant to section 45(1) of the Act. The implementation of the proposal is to be subject to the following conditions and procedures:

1 Proposal Implementation

1-1 The proponent shall implement the proposal as documented and described in Schedule 1 of this statement subject to the conditions and procedures of this statement.

Published on

2 Proponent Nomination and Contact Details

- 2-1 The proponent for the time being nominated by the Minister under sections 38(6) or 38(7) of the Act is responsible for the implementation of the proposal.
- 2-2 The proponent shall notify the CEO of any change of the name and address of the proponent for the serving of notices or other correspondence within 30 days of such change.

3 Time Limit of Authorisation

- 3-1 The proposal must be substantially commenced within five years of the date of publication of this statement.
- 3-2 The proponent shall provide the CEO with written evidence which demonstrates that the proposal has substantially commenced on or before the expiration of five years from the date of this statement.

4 Compliance Reporting

- 4-1 The proponent shall submit to the CEO environmental compliance reports annually, reporting on the previous twelve-month period, unless required by the CEO to report more frequently.
- 4-2 The environmental compliance reports shall address each element of an audit program approved by the CEO and shall be prepared and submitted in a format acceptable to the CEO.
- 4-3 The environmental compliance reports shall:
 - 1. be endorsed by signature of the proponent's chief executive officer or a person, approved in writing by the CEO, delegated to sign on behalf of the proponent's chief executive officer;
 - 2. state whether the proponent has complied with each condition and procedure contained in this statement;
 - 3. provide verifiable evidence of compliance with each condition and procedure contained in this statement;
 - 4. state whether the proponent has complied with each key action contained in any environmental management plan or program required by this statement;
 - 5. provide verifiable evidence of conformance with each key action contained in any environmental management plan or program required by this statement;
 - 6. identify all non-compliances and non-conformances and describe the corrective and preventative actions taken in relation to each non-compliance or non-conformance;
 - 7. review the effectiveness of all corrective and preventative actions taken; and

8. describe the state of implementation of the proposal.

4-4 The proponent shall make the environmental compliance reports required by condition 4-1 publicly available in a manner approved by the CEO.

5 Responsibility for On-site Environmental and Rehabilitation Matters

5-1 At all stages of the proposal, from initial clearing through to closure and decommissioning, the proponent shall nominate a senior employee who shall be the “designated officer” with lead responsibility for on-site environmental and rehabilitation matters.

6 Protection of Vegetation

6-1 The proponent shall not clear or otherwise disturb native vegetation on Lot 2 Calinup Road outside the 19 hectare operational boundary marked as blocks 1 to 18 on Figure 1.

6-2 Prior to the commencement of clearing of vegetation or excavation of sand, whichever is the sooner, and in consultation with the CEO, the proponent shall put in place measures (which may include fencing and signposting) to delineate and protect the locations of plants, vegetation, or other areas of particular conservation significance, including conservation covenant areas, to the requirements of the Minister.

6-3 Throughout the life of the proposal, from initial clearing through to closure and decommissioning, and subject to any specific requirements of conservation covenants applying to the land, the proponent shall maintain, in good condition, the fencing, signposting, or other measures required in condition 6-2, to the requirements of the Minister.

7 Fauna Relocation and Habitat

7-1 Prior to clearing of vegetation or excavation of sand, whichever is the sooner, in consultation with the CEO, the proponent shall prepare a Fauna Relocation and Habitat Plan to the requirements of the Minister.

7-2 This Plan shall detail actions to relocate fauna to a nearby place which reasonably approximates their existing habitat, and shall address relocation of the following fauna species:

- Brush-tailed Phascogale (*Phascogale tapoatafa*);
- Western Brush Wallaby (*Macropus irma*);
- Carpet Python (*Morelia spilota imbricata*);
- Echidna (*Tachyglossus aculeatus*);
- Chuditch (*Dasyurus geoffroii*); and
- Possums of any species,

and shall address the salvage and relocation of tree hollows and habitat logs to provide habitats for fauna, including nesting hollows for birds.

- 7-3 The proponent shall implement the Fauna Relocation and Habitat Plan required by condition 7-1 to the requirements of the Minister.
- 7-4 The proponent shall make the Fauna Relocation and Habitat Plan required by condition 7-1 publicly available in a manner approved by the CEO.

8 Management of vegetation

- 8-1 The proponent shall prevent introduction and spread of weeds and dieback within the proposal area and conservation covenant areas.
- 8-2 The proponent shall give effect to the requirements of 8-1 by implementing a weed and dieback management plan to the requirements of the CEO that addresses the following:
1. hygiene (including vehicle washdown facilities and procedures),
 2. monitoring, and
 3. control procedures.
- 8-3 In the event that weed species or plant dieback are introduced into, or spread from an infected area to an uninfected area within, the proposal area or into conservation covenant areas, the proponent shall undertake appropriate control measures and shall continue those measures for such duration as required by the CEO.
- 8-4 The proponent shall carry out monitoring, and shall take such remedial or management action as may be required, to ensure that native vegetation adjacent to the proposal area is not adversely affected by dust, water used for dust control or other emissions or factors resulting from implementation of the proposal.

9 Rehabilitation

- 9-1 Prior to the commencement of clearing of vegetation or excavation of sand, whichever is the sooner, the proponent shall prepare a Rehabilitation Plan to the requirements of the Minister on advice of the CEO.
- 9-2 The principal objective of this Plan is to ensure there is progressive rehabilitation of:
1. The southern portion of Lot 2 which is to be cleared for excavation; and
 2. The previously excavated northern portion of Lot 2 (see Figure 1).
- 9-3 The rehabilitation Plan shall address short and long term activities, and shall meet the following criteria:
1. In relation to the southern area:
 - a. The area of rehabilitation following decommissioning shall be not less than the area cleared for the implementation of the proposal;
 - b. The vegetation shall have comparable plant species composition to that which occurred prior to clearing and excavation;

- c. The vegetation shall be self-sustaining and composed of plant species native to the local area; and
 - d. The vegetation shall have comparable densities and abundances of plant species to those which occurred prior to clearing and excavation.
2. In relation to the northern area:
- a. The area of rehabilitation in the northern portion of lot 2 shall be commenced within two years of the date of this Statement and cover the whole of the northern portion, with allowance for building envelopes and access roads;
 - b. The rehabilitation shall include re-earthworking and planting vegetation to achieve a stable land surface;
 - c. The vegetation shall be self sustaining and composed of plant species native to the local area;
 - d. In recognition of the degraded state of the northern portion, the objective is not to reinstate native vegetation as it was prior to clearing, but to establish upper storey vegetation and understorey vegetation where possible.

9-4 The Plan shall address the following:

- 1. Final landforms, slopes, sand/soil profiles, sand/soil depths and other relevant characteristics suitable for the re-establishment of self-sustaining native vegetation;
- 2. Survey control procedures to ensure that final landforms and slopes are developed as planned;
- 3. Preparation of an ecological baseline for vegetation coverage in the southern area to be cleared;
- 4. Collection of baseline information on the pre-clearing/excavation soil/sand profiles, depths and characteristic in the southern area;
- 5. Collection of baseline information in the southern area on the hydrology of the site;
- 6. Procedures for re-establishing sand/soil profiles and hydrological conditions comparable to those which existed before clearing and excavation;
- 7. Procedures for soil handling and treatment to manage and control soil compaction;
- 8. Procedures for topsoil handling such that stripping and direct return of topsoil is carried out under optimal conditions;
- 9. Procedures for erosion control;
- 10. Procedures for preparation, handling and application of mulch to assist in rehabilitation;
- 11. Progressive rehabilitation of native vegetation using native plant species of local provenance (defined as native plant species from an area within 10 kilometres of the proposal area);

12. Procedures for salvaging and transplanting grass trees (*Xanthorrhoea* species) and cycad palms (*Macrozamia* species) for inclusion in rehabilitation of the site;
 13. Specific rehabilitation criteria to achieve the objectives of the plan;
 14. Procedures for weed and dieback control;
 15. Objectives, requirements and framework for stakeholder consultation and reporting;
 16. A strategy which integrates the stages of clearing and excavation with rehabilitation schedules and requirements, including planning for topsoil stripping/replacement, mulching and rehabilitation works in optimum season(s) and conditions;
 17. A program to monitor rehabilitation success and to compare with criteria to be achieved;
 18. Contingency measures and remedial actions in the event that expected performance is not achieved; and
 19. Review, audit and continual improvement.
- 9-5 Prior to approval of the Rehabilitation Plan by the Minister, the proponent shall commission a review of the Plan by the Botanic Gardens and Parks Authority, or another suitable body or expert(s), to the requirements of the Minister.
 - 9-6 The proponent shall make the Rehabilitation Plan required by condition 9-1 publicly available in a manner approved by the CEO, prior to approval by the Minister.
 - 9-7 Following approval of the Rehabilitation Plan by the Minister, and subject to any other written law, the proponent may proceed with clearing and excavation of blocks 1 to 9 shown in Figure 1.
 - 9-8 The proponent shall not proceed with clearing or excavation on blocks 10 to 18 until the Minister provides written notification that he is satisfied that the Rehabilitation Plan is being implemented.
 - 9-9 The proponent shall provide an annual performance review report on progress in implementing the Rehabilitation Plan required by condition 9-1, including progress in achieving the stated rehabilitation criteria and proposed means of improving performance, to the Minister.
 - 9-10 The proponent shall make the annual performance review report required by condition 9-9 publicly available in a manner approved by the CEO.
 - 9-11 Following consideration of an annual review report, the Minister may by notice in writing require the proponent to immediately cease excavation works on Lot 2 if the Minister concludes that the Rehabilitation Plan is not being satisfactorily implemented.

10 Conservation Covenants

- 10-1 Prior to clearing of native vegetation, the proponent shall give a conservation covenant(s) for the following areas of land:

1. an area of approximately 19 hectares of native vegetation on Lot 2 Calinup Road, Gelorup as depicted in Figure 1; and
2. an area of approximately 20 hectares of native vegetation and wetland on Lot 268 Kilpatrick Road, Gelorup as depicted in Figure 2.

10-2 The total area covenanted under 10-1 shall not be less than 39 hectares, and the areas covenanted must be native vegetation in good condition or better, or (in the case of the land described in Figure 2) a wetland area of conservation category status.

11 Excavation depth

The depth of sand extraction shall not be less than 2 metres above the historical maximum water table level for the location, or less than 20 metres AHD, which ever is the greater.

12 Definitions

In these conditions (including Schedules and Appendices), unless the contrary intention appears

–

“Act” means the *Environmental Protection Act 1986*;

“CEO” means the chief executive officer of the Department of Environment and Conservation;

“conservation covenant” means:

- (a) a conservation covenant as defined under section 30B of the *Soil and Land Conservation Act 1945*;
- (b) a restrictive covenant entered into with the CEO under section 129BA of the *Transfer of Land Act 1893*; or
- (c) any other instrument of a similar type to (a) and (b) and approved by the CEO;

“dieback” means any plant disease of the *Phytophthora* species;

“Minister” means the Minister responsible for the administration of the Act;

“weeds” means plants species that are not indigenous to the proposal covenant areas and includes all declared plants within the meaning of the *Agriculture and Related Resources Protection Act 1976*.

Procedure

Any dispute as to the terms of the conservation covenants shall be determined by the Minister.

Notes

1. Nothing in this Statement removes the proponent's obligations to comply with other written laws, including any approvals required under laws administered by the Shire of Capel and the requirements of the *Aboriginal Heritage Act 1972*.

Signed 11 April 2008

David Templeman MLA
MINISTER FOR THE ENVIRONMENT; CLIMATE CHANGE; PEEL

Schedule 1

The Proposal (Assessment No. 1301)

The clearing of native vegetation and excavation of sand at the southern portion of Lot 2, Calinup Road, Gelorup (Certificate of Title volume 1356 folio 756). The total area of native vegetation being cleared will not exceed 19 hectares. The area to be cleared will be progressively rehabilitated with local native vegetation.

The location of the native vegetation to be cleared is indicated in figure 1 attached. The area to be quarried will be progressively rehabilitated using local native plant species.

In addition, remedial earthworks and rehabilitation will be carried out on the northern portion of Lot 2, Calinup Road. A total area of approximately 16 hectares will be rehabilitated at the northern end of Lot 2, Calinup Road. The area to be rehabilitated in the northern portion of Lot 2 Calinup Road is indicated in pink in Figure 1.

The proposal also includes the placing of perpetual conservation covenants on the above land and Lot 268 Kilpatrick Road Gelorup (Certificate of Title volume 1319 folio 4) as described in Figures 1 and 2.

The main characteristics of the proposal are summarised in Table 1 below.

Table 1 – Key Proposal Characteristics

Element	Description
Project Life (active sand extraction and quarrying)	Approximately 20 years (Note: rehabilitation works may extend beyond the period of active sand extraction)
Land Tenure	Privately owned land
Maximum area of clearing of native vegetation	19 hectares
Rate of Extraction	200,000 bank cubic metres per year (upper limit)
Infrastructure / ancillary equipment / facilities	<ul style="list-style-type: none"> • Dry screen and conveyor • Front-end loader(s) for excavation and loading of haulage trucks • Crib room / chemical toilet • Dieback wash-down facilities
Sand-pit depth	not less than 2 metres above the historical maximum water table level or less than 20 metres AHD, which ever is the greater.
Clearing and Excavation staging	Four hectare clearing and excavation blocks (maximum)
Rehabilitation – southern portion	The 19 hectare area to be cleared and quarried will be progressively rehabilitated with local native plant species.

Element	Description
Sandpit access	Via existing Calinup Road
Rehabilitation of northern (previously cleared and quarried) portion of Lot 2 Calinup Road	Remedial earthworks to be carried out and the area to be rehabilitated with local native plant species. The total area to be rehabilitated is approximately 16 hectares.
Conservation covenants	Perpetual conservation covenants will be placed on the following land before clearing or excavation commences on Lot 2: <ul style="list-style-type: none"> • Lot 2 Calinup Road • Lot 268 Kilpatrick Road

Figures (attached)

Figure 1 – Location of lot 2 Calinup Road showing areas to be rehabilitated (northern and southern portions of lot 2) and the adjacent native bushland which is to be protected in perpetuity by a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

Figure 2 – Location of additional area of native bushland to be protected in perpetuity through a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

Figure 1 – Location of lot 2 Calinup Road showing development area, areas to be rehabilitated (northern and southern portions of lot 2) and the adjacent native bushland which is to be protected in perpetuity by a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

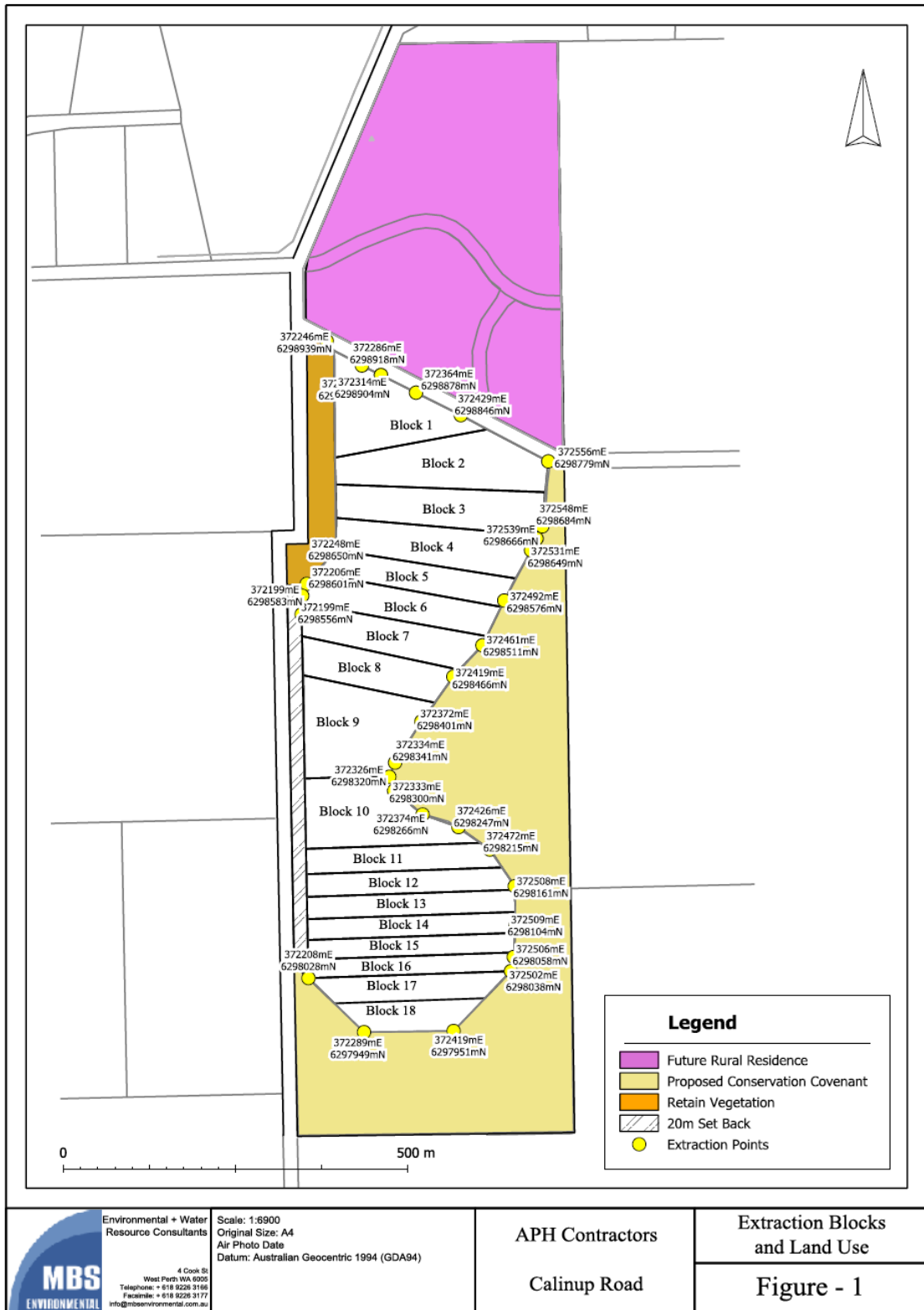
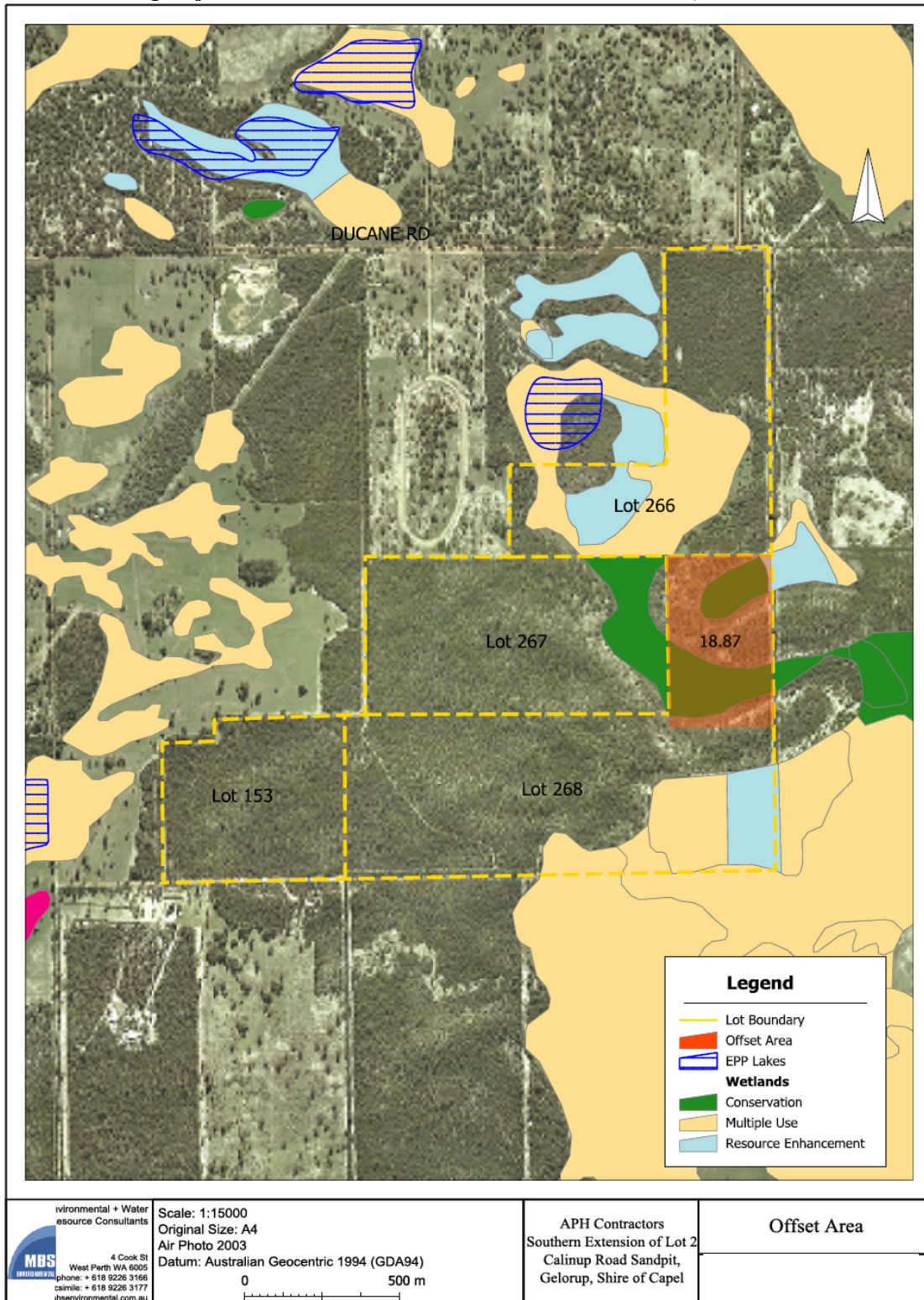


Figure 2 – Location of additional area of native bushland to be protected in perpetuity through a conservation covenant (exact boundaries of the covenant area to be specified in the conservation covenant instrument).



Attachment 1 to Ministerial Statement 767

Change to proposal approved under section 45C of the *Environmental Protection Act 1986*

This Attachment replaces Schedule 1 of Ministerial Statement 767

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

Proponent: McDougall Quarries Pty Ltd

Changes:

- Remove the northern portion of Lot 2 Calinup Road from the proposal
- Amend the development envelope in the southern portion of Lot 2 Calinup Road to correctly align with cadastre

Table 1: Summary of the Proposal

Proposal Title	Southern Extension of Sandpit, Lot 2 Calinup Road, Gelorup, Shire of Capel
Short Description	<p>The clearing of native vegetation and excavation of sand at the southern portion of Lot 2, Calinup Road, Gelorup (Certificate of Title volume 1356 folio 756). The total area of native vegetation being cleared will not exceed 19 hectares. The area to be cleared will be progressively rehabilitated with local native vegetation.</p> <p>The location of the native vegetation to be cleared is indicated in Figure 1 attached. The area to be quarried will be progressively rehabilitated using local native plant species.</p> <p>In addition, remedial earthworks and rehabilitation will be carried out on the previously excavated areas as indicated in Figure 1. northern portion of Lot 2, Calinup Road. A total area of approximately 16 hectares will be rehabilitated at the northern end of Lot 2, Calinup Road. The area to be rehabilitated in the northern portion of Lot 2 Calinup Road is indicated in pink in Figure 1.</p> <p>The proposal also includes the placing of perpetual conservation covenants on the above land and Lot 268 Kilpatrick Road Gelorup (Certificate of Title volume 1319 folio 4) as described in Figures 1 and 2.</p>

Table 2: Location and authorised extent of physical and operational elements

Element	Previously Authorised Extent	Authorised Extent
Project Life (active sand extraction and quarrying)	Approximately 20 years (Note: rehabilitation works may extend beyond the period of active sand extraction)	Approximately 20 years (Note: rehabilitation works may extend beyond the period of active sand extraction)
Land Tenure	Privately owned land	Privately owned land
Maximum area of clearing of native vegetation	19 hectares	19 hectares
Rate of Extraction	200,000 bank cubic metres per year (upper limit)	200,000 bank cubic metres per year (upper limit)
Infrastructure / ancillary equipment / facilities	<ul style="list-style-type: none"> • Dry screen and conveyor • Front-end loader(s) for excavation and loading of haulage trucks • Crib room / chemical toilet • Dieback wash-down facilities 	<ul style="list-style-type: none"> • Dry screen and conveyor • Front-end loader(s) for excavation and loading of haulage trucks • Crib room / chemical toilet • Dieback wash-down facilities
Sand-pit depth	Not less than 2 metres above the historical maximum water table level or less than 20 metres AHD, whichever is the greater.	Not less than 2 metres above the historical maximum water table level or less than 20 metres AHD, whichever is the greater.
Clearing and Excavation staging	4 hectare clearing and excavation blocks (maximum)	4 hectare clearing and excavation blocks (maximum)
Rehabilitation – southern portion	The 19 hectare area to be cleared and quarried will be progressively rehabilitated with local native plant species.	The 19 hectare area to be cleared and quarried will be progressively rehabilitated with local native plant species.
Sandpit access	Via existing Calinup Road	Via existing Calinup Road
Rehabilitation of northern (previously cleared and quarried) portion of Lot 2 Calinup Road Rehabilitation of previously cleared and quarried areas of Lot 2 Calinup Road	Remedial earthworks to be carried out and the area to be rehabilitated with local native plant species. The total area to be rehabilitated is approximately 16 hectares.	Remedial earthworks to be carried out and the area to be rehabilitated with local native plant species.
Conservation covenants	Perpetual conservation covenants will be placed on the following land before clearing or excavation commences on Lot 2: <ul style="list-style-type: none"> • Lot 2 Calinup Road • Lot 268 Kilpatrick Road 	Perpetual conservation covenants will be placed on the following land before clearing or excavation commences on Lot 2: <ul style="list-style-type: none"> • Lot 2 Calinup Road • Lot 268 Kilpatrick Road

Note: Text in **bold** and strikethrough in Table 2 indicates a change to the proposal.

Table 3: Abbreviations

Abbreviation	Term
AHD	Australian Height Datum

Figures (attached)

Figure 1 Location of Lot 2 Calinup Road showing areas to be rehabilitated (**previously excavated** ~~northern~~ and **new clearing areas** ~~southern portions~~ of Lot 2) and the adjacent native bushland which is to be protected in perpetuity by a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

Figure 2 Location of additional area of native bushland to be protected in perpetuity through a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

[Signed 31 January 2022]

Hon Reece Whitby MLA
MINISTER FOR ENVIRONMENT

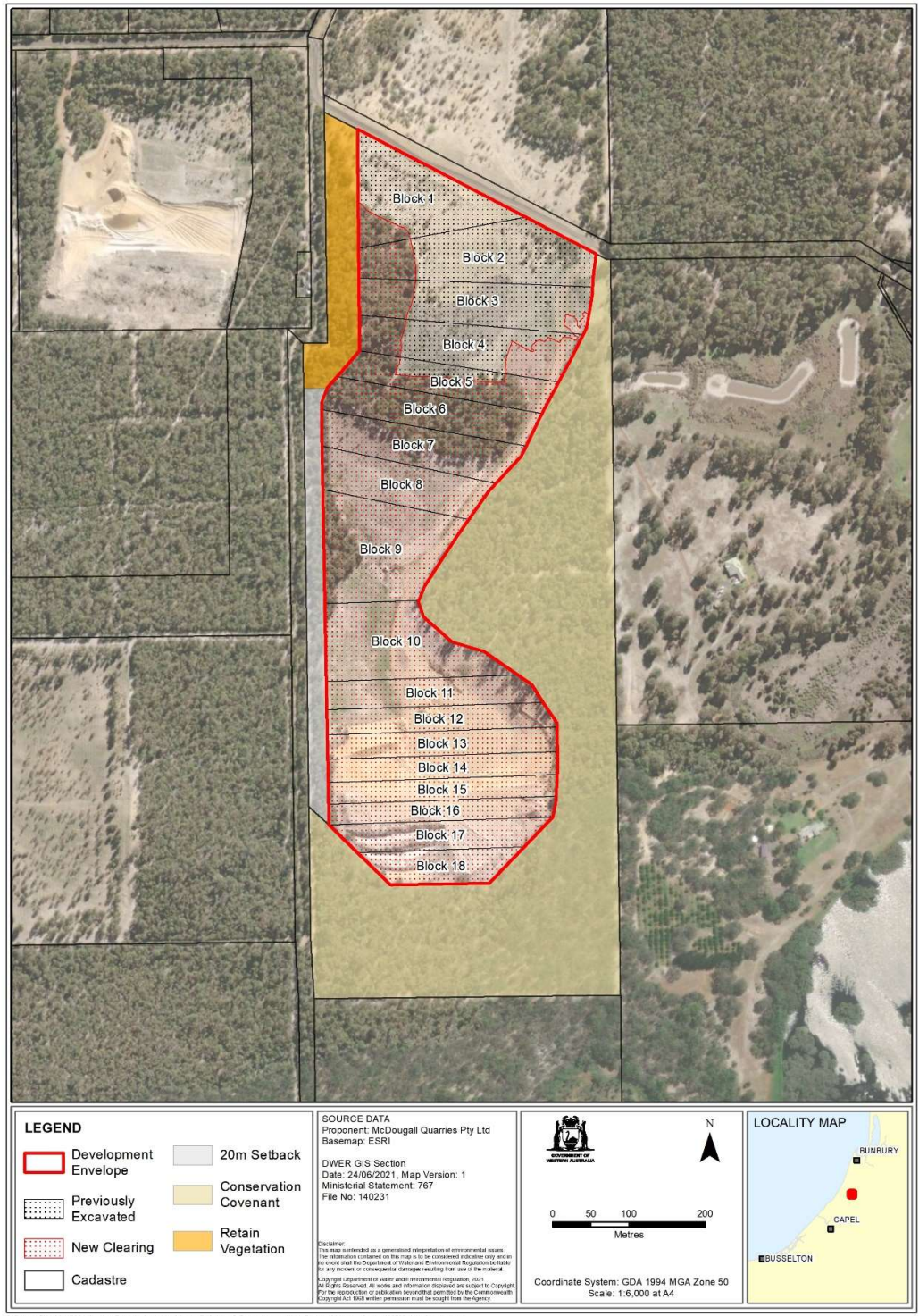


Figure 1: Location of Lot 2 Calinup Road showing development **envelope** area, areas to be rehabilitated (**previously excavated and new clearing areas northern and southern portions** of Lot 2) and the adjacent native bushland which is to be protected in perpetuity by a conservation covenant (exact boundaries of the covenant area to be specified in the Conservation Covenant Agreement).

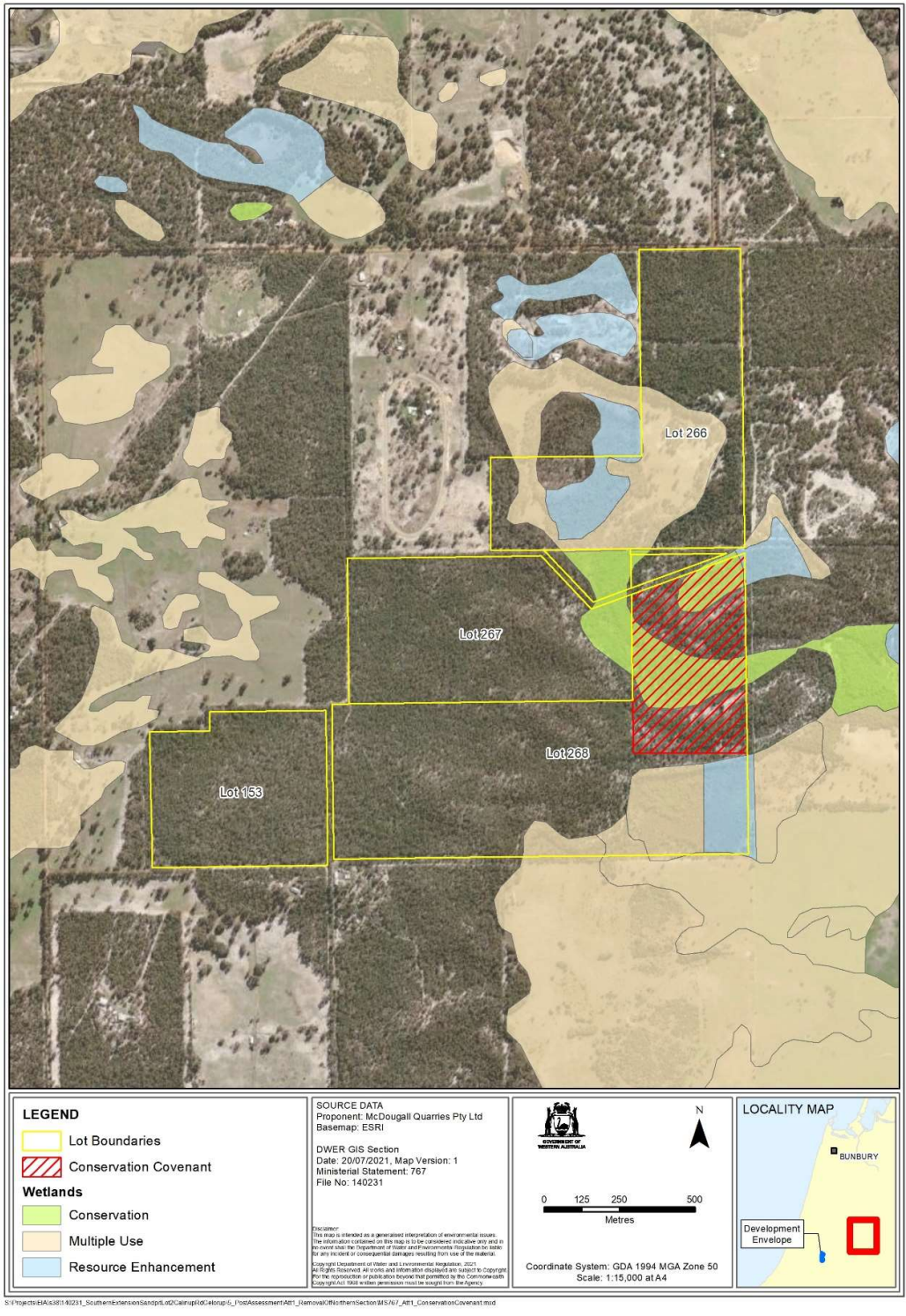


Figure 2: Location of additional area of native bushland to be protected in perpetuity through a conservation covenant (exact boundaries of the covenant area to be specified in the conservation covenant instrument).

All coordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 1994 (GDA94).

Coordinates defining the development envelope are held by the Department of Water and Environmental Regulation, Document Reference Number DWERDT470200.