



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEALS AGAINST THUNDERBIRD MINERAL SANDS PROJECT: ENVIRONMENTAL PROTECTION AUTHORITY REPORT 1606 AND CONDITIONS OF WORKS APPROVAL W6072/2017/1**

#### **Purpose of this document**

This document sets out the Minister's decision on appeals lodged under sections 100(1)(d) and 102(3)(a) of the *Environmental Protection Act 1986* in objection to the conditions of a works approval under Part V of the Act, and the Environmental Protection Authority's Report and Recommendations in respect to the above proposal under Part IV of the Act. 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellants:</b>	<b>Appeal 024 of 2017 – Works Approval W6072/2017/1</b> Ian Perdrisat; Anne Poelina; The Wilderness Society  <b>Appeal 025 of 2017 – EPA Report 1606</b> James Pillsbury; Anne Poelina; Hon Robin Chapple MLC; Walalakoo Aboriginal Corporation; Environs Kimberley; Mount Jowlaenga #2 Polygon Native Title Claim
<b>Proponent:</b>	Sheffield Resources Limited
<b>Proposal description:</b>	The Thunderbird Mineral Sands Project proposal is to construct and operate a heavy mineral sands mining operation on the Dampier Peninsula, approximately 95 kilometres (km) north east of Broome and 75 km west of Derby. The works approval W6072/2017/1 authorised preliminary works at the proposed mine.
<b>Minister's Decision:</b>	<b>Appeal 024 of 2017 – Works Approval W6072/2017/1</b> The Minister dismissed the appeals.  <b>Appeal 025 of 2017 – EPA Report 1606</b> The Minister allowed in part the appeals.
<b>Date of Decision:</b>	11 June 2018

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### **REASONS FOR MINISTER'S DECISION**

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Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained reports from the Environmental Protection Authority (EPA) and the Department of Water and Environmental Regulation (DWER) on the matters raised in the appeals. Due to the relationship between the appeals, they were investigated concurrently. 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 appeals.

A total of six appeals were lodged in objection to EPA Report 1606 and three appeals were received in objection to the conditions of the works approval.

In summary, the Minister noted that the key issues raised in the appeals related to potential environmental impacts to fauna; flora and vegetation; Aboriginal heritage; hydrological processes and inland waters environmental quality; greenhouse gas emissions; rehabilitation; offsets; the EPA assessment process; and inadequate works approval conditions.

As the appeals were investigated concurrently, the following is a consolidated consideration of all issues raised.

In relation to the threatened greater bilby, the Minister considered the information provided in respect to this issue, and was of the view that the EPA assessment has had regard to the potential risks to the local and regional population of greater bilby, and has recommended appropriate controls to manage uncertainty, mitigate potential risks and offset the identified significant residual impacts to this species.

Importantly, the Minister noted that the EPA recommended condition 9-1 which requires the proponent to prepare and submit a Greater Bilby Habitat Rehabilitation Plan on the advice of the Department of Biodiversity, Conservation and Attractions, demonstrating how progressive rehabilitation for the proposal will be undertaken in a manner that results in habitat suitable for greater bilby foraging and burrowing. In respect to offsets, the Minister considered the Appeals Convenor's advice, and considered the EPA's approach was justified by the available evidence.

With regard to concerns expressed on potential risks to the turtle rookery located at Point Torment near Derby Port, the Minister understood that there are no activities taking place on land at the Point, and that loading of ships will take place 17.3 nautical miles offshore from it. The Minister considered the information provided in respect to this issue, and was of the view that the EPA was justified in forming the view that any impacts to turtles are unlikely to be significant.

In respect to Aboriginal heritage, the Minister considered that the EPA had regard to identified sites of Aboriginal significance in its assessment of the proposal, and that based on the information presented during the Public Environmental Review, the EPA's assessment was consistent with its relevant published guidance.

With regard to concerns relating to impacts to hydrological processes and inland waters environmental quality, the Minister noted that the EPA's assessment found that potential impacts to groundwater and surface water flows and water quality, including groundwater dependent ecosystems, are manageable and would no longer be significant provided appropriate controls are applied through the recommended conditions. In this regard, the EPA has recommended condition 8-1 which restricts the area of drawdown so impacts are not greater than that predicted for the proposal. The Minister noted the EPA's advice that similar conditions have been successfully implemented for other projects.

In relation to other issues raised through the appeals in respect to Report 1606, the Minister considered that the EPA's assessment was appropriate and consistent with EPA policy and guidelines.

In relation to the works approval, the Minister noted that many of the concerns raised in the appeals related to the works approval being granted prior to the EPA finalising its report, among other things. As noted in the Appeals Convenor's report, the right of appeal is limited to the conditions of the works approval, rather than the decision of DWER to grant the works approval. In this context, noting a key concern was that no conditions were applied in relation

to greater bilby, the Minister noted that no clearing was authorised by the works approval and therefore agreed that conditions in relation to habitat protection for the greater bilby are not appropriate. The Appeals Convenor's report provides further advice on these issues. It follows that the Minister dismissed the appeals in respect to works approval W6072/2017/1.

After taking into account the information presented to the Minister in respect to the appeals against the EPA's report and recommendations, the Minister was of the view that the EPA had adequately considered the environmental impacts of the proposal in its assessment and that its assessment was consistent with section 44 of the Act. The Minister was also satisfied that the proposal, if implemented, can be adequately managed through the proposed conditions under Part IV of the Act and other relevant statutory requirements identified by the EPA in Report 1606.

However, the Minister allowed the appeals to the extent that the recommended conditions be amended to include a requirement that the proponent reports annual greenhouse gas emissions from the proposal, and amend condition 5-1 to ensure that 'environment plans and reports' are made publicly available. The Appeals Convenor's report contains a full description of these changes. The Minister has otherwise dismissed the appeals in respect to the EPA's report and recommendations.

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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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