



Environmental Protection Act 1986

**Hon Stephen Dawson MLC**  
**Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST DECISION OF ENVIRONMENTAL PROTECTION AUTHORITY NOT TO ASSESS A PROPOSAL CAMPING ON LOT 62 AND LOT 303 DIRK HARTOG ISLAND, HYPERMARKET PTY LTD**

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

This document sets out the Minister's decision on an appeal lodged under section 101(1)(a) of the *Environmental Protection Act 1986* in objection to the Environmental Protection Authority's decision not to assess 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellant:</b>	Russell Speed
<b>Proponent:</b>	Hypermarket Pty Ltd
<b>Proposal description:</b>	Camping on Lot 62 and Lot 303 Dirk Hartog Island.
<b>Minister's Decision:</b>	The Minister dismissed the appeal
<b>Date of Decision:</b>	21 April 2020

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

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The appeal was received against the decision of the Environmental Protection Authority (EPA) not to assess the above proposal.

The Minister was advised that the proposal involves the development of 23 camp sites, three camp kitchen and ablution facilities, and associated tracks and firebreaks, to cater for an additional 80 overnight visitors to the current capacity of up to 26.

The EPA concluded that the likely environmental effects are not so significant as to warrant formal assessment and considered that potential impacts can be adequately managed through implementation in accordance with the referral documentation and the proponent's management and mitigation measures.

The Minister understood that the broader basis for the appeal appeared to be a concern that the EPA, by not assessing this proposal, has not had appropriate regard for the cumulative impacts of this and a potential future development scenario catering for up to 2,500 overnight

visitors. In this context, the Minister was advised that the appellant was particularly concerned about how impacts from increased visitor numbers and demand on water resources will be assessed and managed. The Minister also understood that the appellant was seeking for him to remit the proposal to the EPA for full assessment within the context of the *Shark Bay Terrestrial Reserves and Proposed Reserve Additions Management Plan* (2012) and World Heritage Listing.

## **Decision**

Having considered the concerns, the EPA's advice, the Appeals Convenor's report and recommendation, and other relevant information including advice provided by the Department of Biodiversity, Conservation and Attractions (DBCA), the Minister considered that the EPA was justified in deciding not to assess the proposal. As a result, the Minister dismissed the appeal.

The full reasons for the Minister's decision are set out below, but in short, the Minister came to this conclusion on the basis that the proposal before the EPA was relatively small in scale, and is not expected to cause a substantial increase in the number of vehicles visiting Dirk Hartog Island, or otherwise detrimentally impact on the values of the Dirk Hartog Island National Park. Given the significant values of the area the Minister expects that any proposals to expand beyond this proposal would be the subject of further consideration by the EPA.

## **Visitor and vehicle numbers**

The appellant submitted that the implementation of the proposal will result in a four-fold increase in permitted visitor numbers, and questioned the capacity for this additional patronage to be satisfactorily managed on the Island. The appellant specifically noted that the Shark Bay Management Plan places a limit of 10 vehicles on the Island, and questioned whether this was compatible with the scope of the proposal.

The Minister noted that the Management Plan states that the vision for the National Park is to provide a combination of four-wheel drive destinations that offer a range of nature-based recreation, tourism opportunities and experiences in a remote and natural environment that is managed for ecological restoration.

The Management Plan notes that ecotourism developments on the Island have implications for visitor management within the National Park, which are managed by (among other things) limiting the number of private vehicles, including tour operator vehicles, to 10 at any time. The Management Plan further states that this limit will be monitored to determine if it can be changed.

DBCA advised that after assessing visitation rates and the capacity of designated campsites within the National Park, in August 2016, it approved an increase in the number of private vehicles allowed in the National Park from 10 to 20. DBCA considers this new limit is satisfactory to meet current visitor demand and growth in the short to medium term.

In terms of visitor numbers generally, DBCA acknowledged that the Management Plan estimates potential overnight stays on freehold lots on the Island at 1,600 to 2,500, assuming all lots are developed to full capacity and are at full occupation. However, DBCA considered that this maximum capacity is not likely to be realised in the foreseeable future and is not relevant to the current proposal.

In response to the appellant's concerns about the provision of resources to service the increase in visitor numbers, the EPA advised that like any remote destination, the onus is largely on visitors to ensure they are adequately supplied for the duration of their stay on the Island. The

EPA noted that this fact is communicated to potential visitors by both the proponent and DBCA. Overall, the EPA considered that the proposal is not incompatible with the Management Plan.

DBCA advised that it is currently preparing a visitor master plan for the National Park, which will address future vehicle access management, including in relation to potential and proposed development of freehold and leasehold lots on the Island.

On the basis of the information available to him, the Minister considered that the potential impacts on the National Park associated with the proposed increase in visitor numbers can be sustainably managed under the terms of the Management Plan and proposed visitor master plan. Any future proposals would need to be considered on their merits. For these reasons, the Minister considered the EPA was justified in determining not to assess the proposal in respect to visitor and vehicle numbers.

The Minister acknowledged that Dirk Hartog Island is a sensitive location with significant environmental values. It is important that current and future ecotourism development proposals are carefully considered and managed to ensure these values are not compromised. To this end, the Minister has written to DBCA requesting that it continues to monitor private vehicle numbers accessing the Island and entering the National Park to ensure that they are managed in accordance with the Management Plan.

### **Water resources and stygofauna**

The appellant raised questions about the adequacy of the EPA's consideration of hydrology and water resources on the Island to support the increased visitation. To overcome these shortcomings, the appellant requested that a further review be undertaken and a management plan developed to manage the sustainable use of water resources on the Island. The appellant also questioned whether water use will impact on stygofauna, and requested that a biological survey is undertaken.

In response to this ground of appeal, the EPA advised that visitors are expected to bring an appropriate supply of water to the Island with them, and that potable water used on the premises is only small in scale, and is sourced from a well located within the National Park that has historically been used for pastoral activities and which the proponent has authority to access.

The proponent has indicated that the expected level of water use at the expanded camping facility will be in the order of 8,000 litres per day at maximum occupancy. When compared to the previous pastoral land use, the proponent stated that the amount of water to be abstracted will be minimal.

The Minister noted that a licence under the *Rights in Water and Irrigation Act 1914* is not required for the taking of water in this case, as the well is located outside a proclaimed area and the water is not being drawn from the artesian aquifer.

Noting the EPA's advice about the scale of the proposal, and that the right to access the National Park for abstraction is subject to the conditions of an easement, the Minister accepted the EPA's view that the proposal will not significantly impact on the quality of groundwater or surface water, or on subterranean fauna, and that a biological survey is not necessary. The Minister was also of the view that this position is sound, given the level of abstraction associated with the proposal is understood to be substantially less than that abstracted for the former pastoral land use.

Any future proposal to increase visitor numbers will need to carefully consider the impacts on water resources. This is open to referral to, and assessment by, the EPA in the event that such a proposal is put forward.

### **Waste management**

The appellant questioned the EPA's consideration of waste management for the proposal, specifically in relation to potential contamination of groundwater, collection and disposal of general and septic waste, and waste from increased vehicle numbers.

The EPA advised that to maintain certification of an eco-tourist destination, the proponent is required to manage waste in a sustainable and ecologically sensitive manner. The Minister was also advised that general waste from the proponent's existing accommodation facilities is separated into waste streams and recycled, reused, and returned to the mainland, with minimal waste being sent to landfill. In relation to vehicle waste (including tyres, broken parts and engine oil), the EPA advised that this is collected by the proponent and returned in sealed containers to the mainland disposal area in Denham for recycling.

In relation to septic waste, the EPA advised that the proposal includes three septic disposal systems; each with a 4,000 litre tank, a 2,200 litre tank and a 24 metre leach drain. The EPA advised that while it does not recognise the use of septic tanks as best practice, the proponent's referral information states that the capacity of the existing system is sufficient to accommodate the additional visitors. In addition, the EPA noted that the proponent has committed to replacing the septic disposal system in the future with more contemporary technology such as Aerobic Treatment Units. In making its determination, the EPA supported the proponent's decision to upgrade the septic tank system to more suitable technology in the future.

The Minister also noted the Appeals Convenor's advice that the appropriateness of the design, location and capacity of the septic disposal system is a matter for the Shire of Shark Bay to determine in assessing the proponent's development application. In that regard, the proponent has advised that if the development is approved, then a separate application to construct and install an apparatus for the treatment of sewerage is required to be submitted to the Shire of Shark Bay which will require approval by the Department of Health.

Based on the small scale of the proposal, and the EPA's advice that risks from the septic system can manage potential impacts, the Minister was satisfied that no further assessment of the proposal is required.

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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*.

### **Office of the Appeals Convenor**

Level 22, 221 St Georges Terrace  
Perth WA 6000

**Tel: (08) 6364 7990**

Fax: (08) 6364 7999

[www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au)