



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS OF THE ENVIRONMENTAL PROTECTION AUTHORITY – ASIAN RENEWABLE ENERGY HUB (EPA REPORT 1673)

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 of 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:	Mr WJ Boardman Wildflower Society of Western Australia Inc Pearl Producers Association (Inc)
Proponent:	NW Interconnected Power Pty Ltd
Proposal description:	Construct and operate a large-scale wind and solar renewable energy project at a site approximately 220 kilometres (km) east of Port Hedland and 270 km southwest of Broome, in the northwest of Western Australia.
Minister's Decision:	The Minister allowed in part the appeals
Date of Decision:	24 September 2020

REASONS FOR MINISTER'S DECISION

The Minister obtained a report from the Environmental Protection Authority (EPA) in response to the appeals under section 107 of the *Environmental Protection Act 1986* (EP Act). The Minister noted that the EPA's advice was considered by the Appeals Convenor, and that representatives of the Office of the Appeals Convenor had consulted with the appellants to discuss their appeals.

The Appeals Convenor reported to the Minister, setting out the background and related matters to the appeals, including recommendations on how the appeals should be resolved.

The Minister noted the key concerns raised by the appeals relate to the adequacy of the proponent's flora and vegetation surveys, fragmentation of vegetation and fauna habitat, potential impacts to trapdoor spiders and *Pinctada maxima* pearl oysters and the commercial oyster fishery, weed management, the adequacy of consultation with the Pearl Producers Association, and the adequacy of the EPA's assessment process.

Having considered the available information, including the EPA's response to the appeals and the Appeals Convenor's report and recommendation, the Minister was satisfied that the EPA's assessment of the proposal was appropriate and sufficient to establish the environmental risks posed by the proposal.

The Minister decided however, to allow the appeals to the extent that several of the conditions recommended by the EPA should be modified to ensure predicted environmental outcomes are achieved.

On this basis, the implementation conditions for the proposal should be amended as follows:

- Condition 7-1(2) be changed to 'no direct impacts to Threatened and Priority 1 flora species and minimise direct and indirect impacts on any other Priority flora species and Threatened and Priority ecological communities within the development envelope'
- Condition 8-1(3) be changed to 'location(s) of areas to be avoided in the upcoming stage including any black-footed rock-wallaby habitat (and the associated one (1) km buffer) and Threatened and Priority 1 Flora species as required by condition 7-1'
- Condition 9-2(7) be changed to 'be prepared on the advice of the Department of Biodiversity, Conservation and Attractions and the Department of Primary Industries and Regional Development'
- an additional element be included in Condition 9-2 which requires 'the Marine Environment Management Plan shall show evidence of consultation and any input received from the Pearl Producers Association, including how that input was addressed'.

The Minister otherwise decided to dismiss the appeals. The reasons for the decision are outlined below.

The Minister accepted the EPA's advice that the flora and vegetation surveys were adequate for the design phase of the proposal. The Minister noted the recommended conditions include the preparation of a detailed Environmental Management Plan that, among other things, requires targeted surveys for Threatened and Priority flora prior to ground disturbing activities. The Minister was advised that the proponent has a degree of flexibility in the final siting of infrastructure and that the targeted surveys will work to inform this. While the Minister noted the recommended conditions are generally appropriate to manage the identified impacts to conservation significant flora and vegetation, he agreed with the Appeals Convenor that Condition 7-1(2) should be modified to clarify the outcome to be achieved requires Threatened and Priority 1 flora be avoided. This is consistent with the proponent's commitments in that regard.

The Minister understood that the proposal will result in the large-scale partitioning of the landscape into 'blocks' of vegetation separated by access roads and other cleared areas acting as fire breaks. Each area will be on average approximately 5 km wide by 30 km in length and 15,000 hectares in area.

The EPA advised that potential impacts from fragmentation of vegetation and fauna habitat would not be significant given that permanent clearing of native vegetation is limited to 1.81% of the development envelope. The Minister also noted the recommended conditions require

that the proponent manage potential impacts from habitat fragmentation such as the introduction and spread of feral fauna and weeds.

In relation to trapdoor spiders, the Minister noted that the short range endemic (SRE) invertebrate fauna field survey undertaken during the proposal assessment identified three newly recorded trapdoor spider species, which were conservatively treated as potential SRE. The Minister was advised there is a high probability for them to be more widely distributed based on habitat.

The Minister understood that the recorded locations of two of the three potential SREs are outside of the proposed clearing footprint of the current conceptual design. In addition, the proponent's Environmental Management Plan required under Condition 7-2 and provided during the assessment, outlines that the current known location of the third potential SRE, *Aname* sp. N138, will be avoided by relocating a distribution pylon and associated access track to avoid the location of the species. On this basis, the Minister was satisfied that the EPA's assessment of the potential risks to trapdoor spiders from the proposal was sufficient.

With regard to *P. maxima* pearl oysters, on the information available, the Minister considered that the EPA's assessment adequately considered potential impacts to the *P. maxima* fishery at Eighty Mile Beach, including potential impacts to water quality during construction and from operation of the subsea high voltage direct current transmission line. The Minister was of the view that the management and mitigation measures required under Condition 9 (Environmental Management (Marine Environmental Quality and Marine Fauna)) will ensure that the proponent implements the proposal in a manner that does not significantly impact *P. maxima* pearl oysters or the fishery.

The Minister agreed however, with the EPA's recommendation in response to the appeals that the conditions should be amended to enhance stakeholder engagement with the Department of Primary Industries and Regional Development and the Pearl Producers Association in relation to development of the Marine Environment Management Plan required under Condition 9-2.

As to the other matters raised by the appeals, the Minister considered the advice provided by the EPA and the Appeals Convenor, and was of the view that the EPA had appropriately considered these issues.

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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