



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS OF THE ENVIRONMENTAL PROTECTION AUTHORITY – 3D SEISMIC ACQUISITION SURVEY, NORWEST ENERGY NL, ENEABBA (REPORT 1530)

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 report and recommendations of the Environmental Protection Authority (EPA) for 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:	Wildflower Society of Western Australia; Hon Robin Chapple MLC; P Hodgson; C and U Clarke; P Winrow; 350 Australia; J Koch; S. Reed; Dr G Glazov; B Glossop; P Skippings; R Ding; No Fracking Way; The Wilderness Society WA; K McCreery; R Crump; Conservation Council of Western Australia Inc; WA Native Orchid Study and Conservation Group Inc; T Bates; V Westcott; Dr J E Wajon; N Stick; G Adam
Proponent:	Norwest Energy NL
Proposal:	3D Seismic Acquisition Survey within exploration permit area EP413, north-west of Eneabba.
Minister's Decision:	The Minister allowed the appeals in part
Date of Decision:	30 January 2015

REASONS FOR MINISTER'S DECISION

Pursuant to section 106(1)(a) of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Environmental Protection Authority (EPA) on the matters raised in the appeals. After considering the appeals, the Appeals Convenor reported to the Minister under section 109 of the Act. The Minister understood that representatives of the Office of the Appeals Convenor consulted with the appellants and also met with the proponent as part of its investigation. The Minister was also advised that the Appeals Convenor also sought additional advice from staff of the Department of Parks and Wildlife.

After considering the appeals, the Appeals Convenor reported to the Minister under section 109 of the Act. This report sets out the background and other matters relevant to the appeal.

The Minister noted that the key issues raised in the appeals related to conservation significant flora, vegetation and fauna; cave systems; watercourses; and the adequacy of rehabilitation measures, offsets and the EPA's assessment process. The Minister also noted that appellants raised concerns in relation to potential impacts from unconventional gas exploration, which is not directly related to the proposal the subject of the appeals.

The Minister understood that the native vegetation proposed to be cleared is in very good to excellent condition and possesses significant flora and fauna habitat values. In recognition of this, the EPA recommended condition 6 requiring the proponent to prepare and implement an Environmental Management Plan (EMP). The EMP includes measures to avoid and mitigate potential impacts to native flora, vegetation and fauna, and to ensure that the recovery of vegetation disturbed by the proposal is not inhibited. The Minister also noted that the EMP is required to be prepared in consultation with the Department of Parks and Wildlife, which provides additional assurance that adequate and enforceable management requirements will be in place prior to the commencement of clearing to ensure the EPA's objectives are met.

Notwithstanding the above, the Minister allowed appeals to the extent that condition 6-3 is amended to clarify that clearing of vegetation cannot commence until the EMP is approved by the CEO.

With regard to appellants' concerns relating to impacts to conservation significant flora and fauna habitat, the Minister noted that the EPA's assessment took into account the risks posed from implementation of the proposal. Notwithstanding this, and consistent with the proponent's commitments, the Minister agreed with the Appeals Convenor that condition 6-2(3) be amended to require the EMP to identify suitable buffers between clearing and high conservation values, such as conservation significant flora and fauna habitat.

In relation to concerns raised in appeals regarding impacts to watercourses, the Minister considered the EPA's assessment was appropriate, and that impacts will be limited. The Minister agreed with the Appeals Convenor, however, that condition 6-2(3) should be amended to specify a suitable buffer for the Arrowsmith River as outlined in the proponent's draft EMP.

In relation to potential impacts to caves, the Minister was of the view that the EPA adequately assessed impacts to caves as part of the assessment. The Minister agreed, however, with the EPA that condition 6-2(3) be modified to include procedures for avoiding caves, to provide an additional assurance that appropriate avoidance of impacts will be addressed in the EMP.

The EPA has recommended an offsets condition should a significant residual environmental impact be identified five years after commencement of the proposal. The Minister considered that this is an appropriate condition, and as the value of the offset is a minimum \$200,000 indexed to CPI, it provides surety that should significant residual impacts be identified, the full cost will be met by the offset.

In relation to other issues raised in appeals, the Minister considered that the EPA's assessment was appropriate and consistent with EPA policy and guidelines. The Minister also agreed with the Appeals Convenor that concerns raised in appeals with respect to unconventional gas exploration are outside the scope of the assessment conducted by the EPA.

After considering all of the information presented with respect to these appeals, the Minister was of the view that the EPA has adequately considered the key environmental factors identified by it in its assessment of the proposal.

The Minister, however, partly allowed the appeals by amending condition 6 in the manner noted above. These changes will strengthen the proponent's responsibilities in respect to avoiding conservation significant flora and fauna habitat, the Arrowsmith River and caves.

The Minister otherwise dismissed the appeals. The precise wording of the amended conditions will be determined through the consultation process under section 45(1) of the Act.

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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