



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST REPORT AND RECOMMENDATIONS – YILGARN OPERATIONS, KOOLYANOBING RANGE F DEPOSIT, SHIRE OF YILGARN (EPA REPORT 1581)

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 to 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 WA (Inc); The Wilderness Society WA (Inc)
Proponent:	Cliffs Asia Pacific Iron Ore Pty Ltd
Proposal description:	To mine iron ore and construct mine infrastructure at the F Deposit area, located on the southern Koolyanobbing Range.
Minister's Decision:	The Minister dismissed the appeals.
Date of Decision:	22 December 2016

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the EP Act), the Minister obtained a report from the Environmental Protection Authority (EPA) on the matters raised in the appeals. The Minister was advised that representatives of the Office of the Appeals Convenor met with the appellants as part of the investigation. 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.

The Minister noted that the key issues raised in the appeals related to impacts to the Declared Rare Flora species *Tetratheca erubescens*, offsets, recommendations of EPA Bulletin 1256, rehabilitation and decommissioning, and the EPA assessment process.

In relation to the appellants' concerns in respect to *Tetratheca erubescens*, the Minister noted that the EPA commissioned an independent peer review of the information provided during the Public Environmental Review on the impacts of the mining proposal on the species. As a result of the peer review, the EPA recommended staged implementation of the proposal to reduce the risk to *Tetratheca erubescens*, with 5% direct impact to the species population in stage 1 and 10% during stage 2. The Minister also noted that the conditions recommended by the EPA specify no adverse effects on native flora and vegetation outside of the mine development envelope.

The Minister understood that the peer review considered that the main potential indirect impacts to *Tetratheca erubescens* were related to stability of cliff faces, inadvertent physical damage due to proximity of mining and dust impacts. In this regard, the EPA recommended conditions be applied to ensure stability of the southern wall of the F3 mine pit, maintain minimum separation distance to adjacent *Tetratheca erubescens* sub-populations, and address dust and other indirect impacts on native flora and vegetation.

In relation to the application of offsets to compensate for significant residual impacts to *Tetratheca erubescens*, the Minister noted that the recommended conditions require the proponent to complete an offset plan to the satisfaction of the Chief Executive Officer of the Office of the EPA, on advice of the Department of Parks and Wildlife, before any ground disturbance can occur within the stage 1 mining area. The proponent must then implement the approved offset plan and demonstrate successful completion of stage 1 of the proposal before stage 2 can commence. It follows that monitoring and reporting will be crucial in ensuring that the offset is being implemented and the objective achieved, and therefore the recommended conditions specify monitoring and annual reporting of results, with the annual report to be made publicly available. The Minister also noted that the EPA recommended similar conditions be applied in respect to offsets during stage 2 of the proposal should the prerequisite requirements be met to proceed at the completion of stage 1.

The Minister understood that the proposal impacts a portion of the area previously recommended by the EPA to be reserved for conservation in its advice to the former Minister for Environment in 2007 under section 16e of the EP Act, as published in EPA Bulletin 1256. In this regard, the Minister was satisfied that the EPA's assessment had considered the potential impacts on the environmental values of the proposal area and that its assessment found that the proposal may be implemented to meet the EPA's objectives subject to the implementation of the recommended conditions. The Minister considered that the EPA had assessed the proposals on its merits, having regard to the principles of the EP Act and relevant policy, and that the EPA's processes were satisfactory. The Minister was of the view that the EPA's advice was consistent with the nature conservation and mining arrangements for the Mount Manning area announced by the State Government in 2010, and noted that any development proposals in the area continue to be subject to the requirements of the EP Act and the *Mining Act 1978* (Mining Act).

The Minister noted advice from the Department of Mines and Petroleum that rehabilitation and decommissioning of the proposed mine could be regulated through a Mine Closure Plan required under the Mining Act, and that the EPA had appropriately recommended conditions be applied under Part IV of the EP Act to further regulate risks associated with mine closure.

In relation to other concerns raised in appeals in respect to the EPA's assessment process around changes to the proposal and consultation with decision making authorities, the Minister was satisfied that the Public Environmental Review was undertaken in accordance with the provisions and procedures set out in the EPA's *Administrative Procedures 2012*. The Minister noted that as a result of consultation with decision making authorities during the assessment of the proposal, the EPA had recommended a staged approach to mining and modifications to the mine design to reduce potential environmental impacts.

Taking into account the information presented to him in respect to the appeals, 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 EP Act. The Minister was also satisfied that the proposal, if implemented, could be adequately managed through the proposed conditions under Part IV of the EP Act and the requirements of the Mining Act.

The Minister therefore dismissed the appeals.

In making this decision, the Minister also took into account the proponent's commitment to provide a copy of the offset plans proposed under the draft conditions to the proponent's Community Consultation Group prior to approval of the documents.

The decision as to whether or not the proposal is to be implemented, and the conditions which apply to any such implementation, will be made under section 45 of the EP 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*.

Office of the Appeals Convenor

Level 22, 221 St Georges Terrace
Perth WA 6000

Tel: (08) 6467 5190

Fax: (08) 6467 5199

www.appealsconvenor.wa.gov.au