



Environmental Protection Act 1986

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

## **MINISTER'S APPEAL DETERMINATION**

### **APPEALS AGAINST REPORT AND RECOMMENDATIONS SOLOMON IRON ORE PROJECT – SUSTAINING PRODUCTION SHIRE OF EAST PILBARA (EPA REPORT 1588)**

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

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<b>Appellants:</b>	Ms S. Saberi; Fortescue Metals Group Ltd
<b>Proponent:</b>	Fortescue Metals Group Ltd
<b>Proposal description:</b>	To increase the existing footprint of the Solomon mine to allow for the expansion of mining to maintain production for 35 years.
<b>Minister's Decision:</b>	The Minister allowed the appeals in part.
<b>Date of Decision:</b>	6 July 2017

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

Pursuant to section 106 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. 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.

By way of summary, the third party appellant's concerns primarily related to clearing of native vegetation, possible impacts to Karijini National Park from groundwater abstraction, and the appropriateness of the offsets recommended by the EPA. Issues raised on appeal by the proponent related to the EPA's assessment of groundwater drawdown within Karijini National Park, impacts to semi-permanent pools in Weelumurra Creek, proposed controls relating to weeds and fauna, and clerical and minor edits to the recommended conditions.

In relation to the third party appellant's concerns regarding the clearing of native vegetation, the EPA advised that it considered impacts to vegetation at the local and subregional levels, and considered *Position Statement Number 2 – Environmental Protection of Native*

*Vegetation in Western Australia* (PS 2) as part of its assessment. Based on this assessment, the EPA concluded that the clearing of 12,146 hectares of native vegetation would cause a significant residual impact, and recommended that an offset should be applied to the proposal.

Specifically, the EPA recommended that a monetary offset be applied consistent with *Cumulative Environmental Impacts of Development in the Pilbara Region – Advice of the Environmental Protection Authority to the Minister for Environment under Section 16(e) of the Environmental Protection Act 1986*. The quantum of the offset was determined by the EPA to be at the highest rate consistent with the EPA's advice on other proposals in the region, reflecting the nature of the residual risks identified during the assessment.

On the basis of the foregoing, the Minister was of the view that the EPA's consideration of direct and cumulative impacts to native vegetation was appropriate and in accordance with the relevant guidance and policy.

In relation to the third party appellant's appeal that groundwater related impacts to Karijini National Park and Hamersley Gorge are unacceptable, this appears to be consistent with the EPA's recommended conditions, which are directed at ensuring there is no groundwater drawdown within the boundaries of the Park, which the EPA considers will fully protect Hamersley Gorge.

For its part, the proponent asserted that there are no groundwater dependent values between the boundary of the National Park and Hamersley Gorge, and that groundwater abstraction can be managed so that no impacts to Hamersley Gorge will occur. In support of this submission, the proponent provided additional mapping to the Appeals Convenor. On the basis of this information, the proponent requested that the conditions be amended to allow for drawdown to occur under the National Park, but not at Hamersley Gorge.

The EPA was provided with the proponent's additional mapping. In its response, the EPA referenced advice from the Department of Parks and Wildlife that any impacts to Karijini National Park would be unacceptable and there was a lack of clarity about whether Hamersley Gorge or any other springs, pools, creeks or their associated ecosystems would be affected if drawdown was permitted to occur. In light of the EPA's advice, the Minister was of the belief that the recommended conditions are appropriate. The Minister was therefore of the view that this ground of the proponent's appeal should be dismissed.

In relation to Weelumura Creek, the proponent requested that the reference to semi-permanent pools be deleted from Condition 10. This condition requires the proponent to monitor and maintain the water levels in Weelumurra Creek to ensure that relevant environmental values are not adversely impacted by groundwater abstraction.

The proponent submitted that it would be difficult to maintain compliance with this condition as some of the pools within the creek are not dependent on groundwater and are likely to shift in location due to changes to stream morphology following significant flow events. To address this, the proponent submitted that impacts to the creek could be managed by requiring it to maintain permanent groundwater fed pools in the creek.

In its response to this ground of appeal, the EPA recommended a definition of semi-permanent pools be inserted into the conditions to clarify that the pools required to be maintained are those that are connected to groundwater. This reflects the EPA's view that the water levels in the semi-permanent pools should be maintained relative to baseline conditions and analogue sites, having regard to current rainfall conditions, to emulate the natural extent and duration of the pools. Taking this information into account, the Minister

considered that this ground of appeal should be allowed to the extent that the definition proposed by the EPA be inserted into the conditions.

The proponent also appealed the EPA's recommended Conditions 9-1(1) and 12-1(1), which require it to manage weeds and avoid impact to fauna arising from the implementation of the proposal. The proponent submitted that the conditions should be limited to impacts within its development envelope, on the basis that it would be difficult to establish if any impacts observed outside the envelope are attributable to the proposal given the high use of the area for tourism and other mining operations.

In its response to this ground of appeal, the EPA did not agree with the proposed changes. The Appeals Convenor noted that the conditions allow the proponent to establish targets and management actions in agreement with the EPA to ensure that no impacts attributable to the proposal will occur. On this basis, the Minister considered that the conditions are appropriate and the Minister dismissed this ground of the proponent's appeal.

In addition to the above, the proponent identified a number of what it described as clerical and minor amendments to the conditions. The EPA supported the changes requested by the proponent, which are reflected in the Appeals Convenor's report, and the Minister allowed this ground of appeal in accordance with the Appeals Convenor's recommendations.

It follows from the above that the Minister considered that the EPA adequately considered the potential impacts from the proposal, and relied on appropriate information in reaching its conclusion that its objectives could be met subject to certain conditions. The Minister nonetheless allowed the appeals in part by inserting a definition of 'semi-permanent pools' consistent with the EPA's advice, and making other minor changes as noted above. The Minister otherwise dismissed the appeals.

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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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