



Report and recommendations of the Environmental Protection Authority



Earl Grey Lithium Project – inquiry under section 46 of the *Environmental Protection Act 1986* to amend Ministerial Statement 1118

Covalent Lithium Pty Ltd

Report 1697

January 2021

Inquiry under section 46 of the *Environmental Protection Act 1986*

The Minister for Environment has requested that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing the implementation conditions 7 and 8 (Terrestrial Fauna Environmental Management Plan and Offsets) of Ministerial Statement 1118. The changes included amending figures and coordinates relating to the Malleefowl mound exclusion zones and the revision of the offsets required for *Microcorys* sp. Mt Holland and Ironcaps Banksia (*Banksia sphaerocarpa* var. *dolichostyla*) for the Earl Grey Lithium Project.

Section 46(6) of the *Environmental Protection Act 1986* requires the EPA to prepare a report that includes:

- (a) a recommendation on whether or not the implementation conditions to which the inquiry relates, or any of them, should be changed
- (b) any other recommendations that it thinks appropriate.

The following is the EPA's report to the Minister pursuant to s. 46(6) of the *Environmental Protection Act 1986*.



Professor Matthew Tonts
Chair

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1. The proposal

The Earl Grey Lithium Project (the proposal) is to develop a pegmatite-hosted lithium deposit at the abandoned Mt Holland mine site, located 105 km south-southeast of Southern Cross, Shire of Yilgarn. The proponent for the proposal is Covalent Lithium Pty Ltd.

The Environmental Protection Authority (EPA) assessed the proposal at the level of Public Environmental Review, and published its report in October 2019, (Report 1651). In this report, the EPA identified the following key environmental factors during the course of its assessment of the proposal:

- Flora and Vegetation
- Terrestrial Fauna.

In applying the *Statement of Environmental Principles, Factors and Objectives* (EPA 2020a) these factors are now represented by:

- Flora and Vegetation
- Terrestrial Fauna.

The EPA concluded in Report 1651 that the proposal was environmentally acceptable, and that the proposal may be implemented subject to the recommended conditions.

The Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement 1118 on 21 November 2019.

Previously approved changes to the proposal or conditions

There have been no changes to the proposal or to the implementation conditions since Ministerial Statement 1118 was issued.

2. Requested changes to the conditions

In August 2020, Covalent Lithium Pty Ltd requested the following changes to the implementation conditions of Ministerial Statement 1118:

- Changes related to the requirements of condition 7 -1(1) and 7-1(3) to change Figure 4 of Schedule 1 to remove one Malleefowl Mound Exclusion Zone (MM23) and identify a minor revised proposal footprint and development envelope to facilitate a change to the waste rock dump footprint
- Change to Schedule 2 to amend the spatial dataset to reflect the removal of Malleefowl Mound Exclusion Zone for MM23 referred to in condition 7-1(1)
- Amend conditions 8-1(4) and 8-8(2) to replace the reference to 6,957 individuals of *Microcorys sp.* Mt Holland (D.Angus DA2397) to 15.93 per cent of the regional population.

Conditions 8 (8-1(4) and 8-8(2)) of Ministerial Statement 1118 relate to the requirement of the proponent to provide offsets to counterbalance the significant residual impacts of the project. Specifically, the proponent is required to offset impacts to 6,957 individuals of *Microcorys sp.* Mt Holland (D. Angus DA2397).

During the course of this assessment, the Department of Biodiversity, Conservation and Attractions advised that *Microcorys sp.* Mt Holland (D. Angus DA2397) has recently (13 October 2020) been recognised as a new species and is now described as *Microcorys elatoides* (T.C. Wilson and Hislop).

In August 2020, the Minister for Environment requested that the EPA inquire into and report on the matter of changing the implementation conditions of Ministerial Statement 1118 for the Earl Grey Lithium Project.

In November 2020, Covalent Lithium requested the additional amendment to Condition 8 of Ministerial Statement 1118 below:

- Amendment of wording of condition 8-1(3) to only refer to direct impacts to Ironcap Banksia individuals
- Removal of conditions 8-8 (4) and 8-8 (5) as these conditions refer to protection mechanisms and conservation reserves
- Amend conditions 8-7 to 8-12 to allow a rehabilitation based offset strategy rather than a land acquisition and management strategy.

In late December 2020, the Minister for Environment requested that the EPA inquire into and report on the matter of the additional change to implementation condition 8 of Ministerial Statement 1118 for the Earl Grey Lithium Project. This report satisfies the requirements of both of the EPA's inquiries into the requested changes (Assessment Nos. 2263 and 2279).

3. Inquiry into changing the conditions

The EPA has discretion as to how it conducts this inquiry. In determining the extent and nature of this inquiry, the EPA had regard to information such as:

- the currency of its original assessment of the Covalent Lithium, Earl Grey Lithium Project (Report 1651)
- Ministerial Statement 1118 (MS 1118)
- information provided by the proponent (Covalent 2020a and Covalent 2020b)
- advice from relevant decision-making authorities
- any new information regarding the potential impacts of the proposal on the environment.

EPA procedures

The EPA followed the procedures in the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* (State of Western Australia 2016) and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (EPA 2020b).

4. Inquiry findings

The EPA considers that the following are the key environmental factors relevant to the change to the conditions:

- Flora and Vegetation
- Terrestrial Fauna.

4.1 Flora and Vegetation

The EPA's environmental objective for Flora and Vegetation is *to protect flora and vegetation so that biological diversity and ecological integrity are maintained.*

Conclusions from EPA Report 1651

EPA Report 1651 recognised that the proposal included a number of priority species within the development envelope. Of the listed species, the Department of Biodiversity, Conservation and Attractions (DBCAs) advised that *Microcorys sp. Mt Holland (D. Angus DA2397) (P1)* (now *Microcorys elatoides*) was of greatest concern due to its restricted range and the risk of cumulative impacts.

Microcorys sp. Mt Holland (D. Angus DA2397) (now Microcorys elatoides)

Microcorys sp. Mt Holland (D. Angus DA2397) (P1) is a new species, first recorded in the Earl Grey project area in 2016. Targeted surveys in 2018 and 2019 recorded a total of 8,174 plants in the project area, of which 5,692 were recorded within the development envelope. A total of 10,856 individuals were recorded regionally.

Due to its form, it was not possible to record all individual plants within an identifiable population, so an estimate of the total population was calculated using Esri ArcGIS. Population estimates were made if the species was recorded in sufficient numbers and the vegetation community was sufficiently surveyed.

It was estimated that 43,676 individuals of *Microcorys sp. Mt Holland (D. Angus DA2397) (P1)* were present in the survey area which also represents the regional extent. Of these, 27,535 are present within the development envelope.

After applying the mitigation hierarchy, undertaking changes to the proposal and including conservation significant flora exclusion zones, the proposal was expected to:

- directly impact on 6,246 individuals of *Microcorys sp. Mt Holland (D. Angus DA2397) (P1)*, (14.30 per cent of the local population)
- indirectly impact on 711 individuals (1.63 per cent of the local population).

The reduction in impacts from application of the exclusion zones is approximately 6 per cent.

Banksia sphaerocarpa var. *dolichostyla*

This species is confined to an area east of the cleared wheatbelt, within the Narrogin and Merredin Districts. It occurs on Vacant Crown Land north from Digger Rocks, through Forrestania, to Mt Holland. Targeted surveys in 2018 and 2019 recorded 16,822 individuals in the survey area of which 5,220 were recorded within the development envelope. A total of 25,445 individuals were recorded regionally.

To further reduce impacts to *Banksia sphaerocarpa* var. *dolichostyla*, (Vulnerable) the proponent proposed to exclude development in a number of areas (conservation significant flora exclusion zones).

After applying the mitigation hierarchy, undertaking changes to the proposal and including conservation significant flora exclusion zones, the proposal was expected to:

- directly impact on two individuals of *Banksia sphaerocarpa* var. *dolichostyla* (0.01 per cent of the local population)
- indirectly impact on 67 individuals (0.40 per cent of the local population).

The impact prior to implementation of the exclusion zone were up to 17 per cent of the population. Indirect impacts are classified as within a buffer of 50 m from direct disturbance.

To manage the impacts to *Microcorys* sp. Mt Holland (D. Angus DA2397) and *Banksia sphaerocarpa* var. *dolichostyla*, the EPA recommended the following conditions:

- a limit on the clearing of native vegetation through the authorised extent detailed in schedule 1 of MS 1118
- implementation of measures to ensure objectives of condition 6-1 of MS 1118 are met through the updating and implementation of a Flora and Vegetation Environmental Management Plan (MS 1118, Condition 6-3)
- implementation of offsets (MS 1118, condition 8) to counterbalance the significant residual impact to *Microcorys* sp. Mt Holland (D. Angus DA2397) (P1) and *Banksia sphaerocarpa* var. *dolichostyla*.

Assessment of the requested change to conditions

The EPA considers that the following current environmental policy and guidance is relevant to its assessment of the proposal for this factor:

- Environmental Factor Guideline – Flora and Vegetation, (EPA 2016a)
- *Technical Guidance – Flora and Vegetation Surveys for Environmental Impact Assessment*, (EPA 2016b).

Microcorys elatoides (formerly *Microcorys* sp. Mt Holland (D. Angus DA2397))

In accordance with condition 6-2 of MS 1118, the proponent undertook pre-clearance surveys of the development envelope to confirm populations of priority species. An additional regional survey was also undertaken. The EPA considers that the flora and vegetation surveys undertaken, as supplemented by the information provided with the applications for amendment to the conditions, are adequate for this inquiry because of their currency and coverage of the proposal impacts.

Results of these surveys indicate that the population of *Microcorys elatoides* is greater than originally estimated. The regional population increased from an estimated 43,676 individuals to a known population of 73,136 individuals. Similarly, the population within the disturbance footprint likely to be impacted (both direct and indirect) increased from 6,957 individuals originally assessed to 9,732 (7,307 direct impacts and 2,425 indirect impacts).

The proportional change to regional populations originally assessed by the EPA (Report 1651) amounted to an impact to 15.93 per cent of the estimated population. Following the additional surveys this is now revised to a 13.31 per cent impact on the known population.

The EPA assessed that the original proposed disturbance on *Microcorys elatoides* was significant and required counter-balancing offsets to be acceptable. The EPA has now assessed whether the result of the proposed change is significant and is acceptable, including by the provision of counter-balancing offsets.

In its assessment the EPA has considered the increase in individuals to be impacted, the decrease in the proportion of the population to be affected, the location and viability of *Microcorys elatoides* regional populations, and the likelihood of offsets being available to counter-balance residual impacts. The EPA has concluded that the result of the proposed change remains significant, but is acceptable by the provision of counter-balancing offsets.

The proponent has proposed replacing the reference to 6,957 individuals of *Microcorys elatoides* in condition 8 to a percentage of the regional population (15.93 per cent). Whilst the impact to the total number of individuals would be greater, the percentage impact on the regional population would be less. Therefore the 15.93 per cent would provide some contingency and additional protection for the species. The Department of Biodiversity, Conservation and Attractions (DBCA) has advised that they have no concerns regarding this requested change to condition 8.

However, the EPA does not consider it appropriate to implement a condition based on per cent impact due to the difficulty in assessing compliance with such a condition. Additionally, implementing a condition referring to an offset based on per cent of a population would require the proponent to continually provide further offsets whenever additional individuals are identified outside of the development envelope whether through their own surveys or those conducted by other proposals.

Banksia sphaerocarpa var. *dolichostyla*

The proponent has completed targeted surveys of potential offset sites for *Banksia sphaerocarpa* var. *dolichostyla*. As a result of these surveys, it became apparent that the *Banksia sphaerocarpa* species located on the Mt Holland site were different to the *Banksia sphaerocarpa* species located on all of the potential freehold areas identified for offsets.

A review of specimens located at the WA Herbarium identified that specimens labelled as *Banksia sphaerocarpa* var. *dolichostyla* contained both morphologies. A specialist taxonomist and *Banksia* expert was engaged and confirmed that the WA Herbarium samples housed under this taxon included specimens with two distinct morphologies, one group which clearly and correctly represented *Banksia sphaerocarpa* var. *dolichostyla* and a range of specimens which did not represent this species.

A further review of the locations from where the samples were confirmed as *Banksia sphaerocarpa* var. *dolichostyla* shows it is restricted to the region between Mount Holland and South Ironcap and does not occur in the region between Bodallin and Hyden (where potential offset sites were located). As a result, the parcels of land originally identified for offsets were determined not to support natural populations of *Banksia sphaerocarpa* var. *dolichostyla*, but instead, supported populations of *Banksia sphaerocarpa* var. *caesia*, a widespread and non-threatened species.

Consequently, it has been determined that there is no freehold land available containing *Banksia sphaerocarpa* var. *dolichostyla* available for purchase and the proponent will not be able to meet the intent of condition 8 of MS 1118 in regard to this species.

The proponent has proposed a number of measures to eliminate the residual risk to this species. To reduce the impacts to the 67 individuals identified as being indirectly impacted, the proponent has proposed to seal the access road which will significantly minimise dust impacting on these individuals.

In addition, the proponent has proposed that an area located on the old airstrip be designated as a rehabilitation site for *Banksia sphaerocarpa* var. *dolichostyla*. The proponent has proposed to rehabilitate the area with target criteria of a minimum of 67 individuals surviving. *Banksia sphaerocarpa* var. *dolichostyla* appears to be a disturbance species and was identified during the original EPA assessment occurring in populations on areas cleared during previous mining on this site at the Mt Holland Gold mine. For this reason, rehabilitation in areas of previous disturbance appears to be feasible. This requirement is a reduction in offsets proportionate to the reduced impact and can be incorporated into the rehabilitation programs that would be undertaken as a part of the proponent's operations. The requirement also aligns with the requirements of approval under the *Environment Protection and Biodiversity Conservation Act 1999*.

To ensure that these proposed mitigation measures can be enforced, the proponent has updated the Flora and Vegetation Management Plan required by Condition 6 of MS 1118.

The *Earl Grey Lithium Project Flora and Vegetation Environmental Management Plan* (Rev 3, 10 December 2020) has been reviewed concurrently with this inquiry, and the document clearly identifies the portion of road to be sealed in order to ensure indirect impacts to the species are minimised as much as possible. The Plan includes trigger criteria and contingency measures to ensure this objective is achieved.

The EPA in reviewing the plan has also recommended an amendment to condition 6-1 which provides clarity on the level of impact allowed to conservation significant flora species. The proponent had outlined this level of impact as a threshold in the Plan.

The Flora Offset Strategy required by Condition 8-7, will be updated to include the area used for the old air strip, which is to be rehabilitated. The offset strategy will need to clearly describe the rehabilitation strategy, including target criteria for individual survival rate.

The proponent has discussed the above approach with the Department of Agriculture, Water and the Environment who have since approved a variation of conditions for the Earl Grey Lithium Project including conditions relating to *Banksia sphaerocarpa* var. *dolichostyla* (EPBC 2017/7950 - 23 December 2020).

4.2 Terrestrial Fauna

The EPA's environmental objective for Terrestrial Fauna is *to protect terrestrial fauna so that biological diversity and ecological integrity are maintained.*

Conclusions from EPA Report 1651

A range of fauna surveys were conducted in 2016 and 2017 to inform the assessment of the proposal. The surveys identified a range of fauna species including conservation significant Malleefowl (*Leipoa ocellata*).

Surveys for Malleefowl in 2016 comprised 575 kilometres of transects at 10 metre spacings, undertaken between October and December. The surveys focused on the potential deposit and regional locations. An opportunistic Malleefowl survey was undertaken in September 2017, followed by a further targeted survey (801 km of transects) in October 2017 which focused on the development envelope.

There were 18 individual Malleefowl sightings during the fauna surveys (12 within the development envelope), and a total of 51 Malleefowl mounds recorded. Of these, one active mound, three recently active mounds and 34 inactive or failed mounds were within the development envelope. Eight mounds were likely to be directly impacted with all being considered to be now inactive.

The Malleefowl records identified within the development envelope, compared to the regional survey area, was considered to be as a result of survey effort. Other factors would also influence the distribution, such as large areas of the landscape which were previously burnt. Surveys identified that all active mounds were found in

unburnt habitat. Malleefowl typically do not breed in recently burnt areas and do not return to those areas to breed for at least six years, however, are likely to breed again in these areas in the future and construct new mounds.

The proponent changed the proposal during the assessment (under s. 43A of the EP Act) by modifying the design of the waste dump to avoid the active Malleefowl mound (MM23). The proponent also committed to protecting most of the Malleefowl mounds identified within the development envelope by implementing exclusion zones around them.

To manage these impacts, the EPA recommended the following conditions:

- control through authorised extent in schedule 1 of Ministerial Statement 1118
- implementation of measures to ensure objectives of condition 7-1 of MS 1118 are met through the updating and implementation of a Terrestrial Fauna Environmental Management Plan (MS 1118, Condition 7-2)
- implementation of offsets (MS 1118, condition 8) to counterbalance the significant residual impact to 386 ha of foraging and breeding habitat for Malleefowl (*Leipoa ocellata*).

Assessment of the requested change to conditions

The EPA considers that the following current environmental policy and guidance is relevant to its assessment of the proposal for this factor:

- *Environmental Factor Guideline – Terrestrial Fauna* (EPA 2016c)
- *Technical Guidance – Terrestrial vertebrate fauna surveys* (EPA 2020c).

The EPA considers that the terrestrial fauna surveys undertaken for the original assessment as supplemented by the information provided with the application for amendment to the conditions, are adequate for this inquiry because of their currency and coverage of the proposal impacts.

Ministerial Statement 1118 identifies 31 Malleefowl mound exclusion zones within the approved development envelope. Exclusion zones are defined as a 100 metre zone surrounding the mound. These exclusion zones are delineated in Schedule 2 and presented in Figure 4 of MS 1118. The exclusion zones were implemented to reduce the risk of damage to any of the mounds and to any Malleefowl individuals which may use the mounds for breeding (during the mound building season August to February). Disturbance associated with the proposal was to be excluded from these areas.

The proponent is seeking to remove one Malleefowl mound exclusion zone (MM23) from Schedule 2 of MS1118, to facilitate a change to the waste rock dump footprint. Previous conceptual layouts for the proposal sought to avoid the MM23 mound, however, following changes to mine design by the proponent, it has been identified that this avoidance would not result in an operable mine design and potential impacts to MM23 from indirect impacts may be unavoidable. Accordingly, the proponent is proposing to remove the MM23 mound, and the Malleefowl Mound

Exclusion Zone applying to MM23 from Figure 4 of Schedule 1 and Schedule 2 of MS 1118.

This mound was identified as active during the original assessment. The mound was used by a breeding pair of Malleefowl with activity observed between October and November 2019 by a trail camera. A feral cat was recorded at the mound (by trail camera) in December 2019 and no subsequent visits were made to the mound by Malleefowl. The eggs were likely to have been predated by the feral cat. The mound occurs in a fairly exposed location, with feral cats being recorded during the regional surveys, so it may not be a suitable long-term location for breeding success of Malleefowl.

Due to the current inactivity at the mound, it can correctly be defined as Inactive under the *National Malleefowl Recovery Team Procedures Manual* (NMRT 2019). The DBCA has also advised that they have no concerns with the reclassification of the mound to inactive and its removal from schedule 2 of MS1118.

The EPA assessed that the original proposed disturbance on Malleefowl was significant and required counter-balancing offsets to be acceptable. The EPA has now assessed whether the result of the proposed change is significant and is acceptable, including by the provision of counter-balancing offsets.

In its assessment the EPA has considered the decrease in active mounds, the increase in inactive mounds, the location and viability of Malleefowl regional populations, the threats to Malleefowl populations, the and the likelihood of offsets being available to counter-balance residual impacts. The EPA has concluded that the result of the proposed change remains significant, but is acceptable by the provision of counter-balancing offsets.

In addition, to address the threat of feral animals to Malleefowl in the local area, particularly as the accommodation village and associated landfill are likely to attract additional feral animals, the EPA recommends that the proponent be required to include feral animal control in the Terrestrial Fauna Environmental Management Plan required by Condition 7. The proponent should be required to ensure there is no proposal-related direct or adverse indirect impacts to Malleefowl from feral animals in the Development Envelope by controlling feral animals within, and a three kilometre buffer surrounding, the Development Envelope.

There are no other changes to Figure 4 of Schedule 1 or Schedule 2 (spatial data) arising from the minor revised proposal footprint and development envelope the to facilitate a change to the waste rock dump footprint. The changes do not affect any other environmental factors.

4.3 Other conditions

Ministerial Statement 1118 contains other conditions not related to the key environmental factors discussed above. The EPA's recommendations regarding these other conditions are that they remain unchanged.

5. Conclusions and recommendations

Change to condition 6

The EPA has recommended that condition 6-1 is amended to include 6-1(2) to provide clarity on the level of impact allowed to conservation significant flora species.

Change to Schedule 2 referred to in Condition 7

The proponent has requested the removal of Malleefowl Mound MM23 and its exclusion zone from Figure 4 and Schedule 2 of MS 1118 referred to in Condition 7-1(1) and 7-1(3). The EPA considers it is appropriate to remove Malleefowl Mound MM23 from Figure 4 and Schedule 2 of MS1118 and amend Condition 7-1 to require the proponent to protect Malleefowl by controlling feral animals within the development area and within a three kilometre buffer surrounding the development area.

Change to conditions 8-1(4) and 8-8(2)

The proponent has requested a change to conditions 8-1(4) and 8-8(2) to replace the specified number of individuals of *Microcorys elatoides* currently 6,957 with “*up to 15.93 per cent of the regional population*”.

The EPA considers it is appropriate to change conditions 8-1(4) and 8-8(2) to reflect the increased known population of *Microcorys elatoides*, however the conditions should be changed to refer to a set number of individuals being impacted (9,732) so that the offset can be applied, rather than the per cent of population proposed by the proponent.

Change to conditions 8-1(3)

The proponent has requested changes to condition 8-1(3) to only refer to direct impacts to Ironcap Banksia (*Banksia sphaerocarpa* var. *dolichostyla*).

The EPA considers it is appropriate to change condition 8-1(3) to refer to direct impacts only (2 individuals), instead of including both direct and potential indirect impacts (69 individuals). Subsequently the EPA considers it is then appropriate to change condition 8-8(2) to also refer only to direct impacts to *Banksia sphaerocarpa* var. *dolichostyla*. The Flora and Vegetation Management Plan required by condition 6 of MS 1118 has been updated for approval to include the proposed mitigation measures to minimise the potential indirect impacts.

Change to conditions 8-8(2), 8-8(4) and 8-8(5)

The proponent has requested the removal of conditions 8-8(2), 8-8(4) and 8-8(5) as they consider that these conditions refer to protection mechanisms and conservation reserves which cannot be obtained due to the lack of *Banksia sphaerocarpa* var. *dolichostyla* available on land able to be purchased.

The EPA considers that it is appropriate to change condition 8-8(2) to remove reference to the residual impacts to *Banksia sphaerocarpa* var. *dolichostyla* and relate only to direct impacts, but recommends that the condition remain in place to

ensure the residual impact to *Microcorys elatoides* is accounted for as per the change outlined above.

The EPA considers that it is not appropriate to remove conditions 8-8(4) and 8-8(5) as these will be required to ensure mechanisms are in place to protect *Microcorys elatoides*.

Change to conditions 8-7 to 8-12

The proponent has requested amendments to conditions 8-7, 8-8, 8-9, 8-10, 8-11 and 8-12 to allow for a rehabilitation-based strategy, rather than exclusively land acquisition and management.

The EPA considers that it is not appropriate to amend conditions 8-7 to 8-12 (other than the amendments previously mentioned) to allow for the inclusion of rehabilitation in the Flora Offset Strategy, as these conditions already allow for rehabilitation and therefore no further amendment is required.

Conclusions

In relation to the environmental factors, and considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA concludes that:

- there is no significant new or additional information that changes the conclusions reached by the EPA under any of the relevant environmental factors since the proposal was assessed by the EPA in Report 1651 (October 2019)
- no new significant environmental factors have arisen since the EPA's original assessment of the proposal
- the changes proposed in this assessment are not likely to cause a significant impact which is interrelated between the two key environmental factors identified in this report, or on other key environmental factors identified in the EPA's original assessment of the proposal. Therefore, the EPA has determined that there are no environmental factors which are inextricably linked to the change, and which warrant further holistic impact assessment
- impacts to the key environmental factors are considered manageable, based on the requirements of the original conditions retained in Ministerial Statement 1118, and the imposition of the attached recommended conditions (Appendix 1).

Recommendations

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment under s. 46 of the EP Act:

- While retaining the environmental requirements of the original conditions of Ministerial Statement 1118, it is appropriate to change implementation condition 6-1 and add condition 6-1(2) to provide clarity on the level of impact allowed to conservation significant flora species.

- While retaining the environmental requirements of the original conditions of Ministerial Statement 1118, it is appropriate to change implementation conditions 8-1(3), 8-1(4) and 8-8(2), and replace them with new implementation conditions.
- While retaining the environmental requirements of the original conditions of Ministerial Statement 1118, it is appropriate to change Figure 4 and Schedule 2 referred to in condition 7-1(1) to remove reference to Malleefowl Mound MM23 and its exclusion zone, and add condition 7-1(4) to require the proponent to protect existing Malleefowl by controlling feral animals within the development area and within a three kilometre buffer surrounding the development area.
- While retaining the environmental requirements of the original conditions of Ministerial Statement 1118 and allowing for the changes to conditions recommended above, it is appropriate that conditions 8-8(4) and 8-8(5) remain unchanged to ensure mechanisms to protect *Microcorys elatoides* remain in place.
- While retaining the environmental requirements of the original conditions of Ministerial Statement 1118 and allowing for the changes to conditions recommended above, it is appropriate that conditions 8-7, 8-8 (other than 8-8(2)), 8-9, 8-10, 8-11 and 8-12 remain unchanged as these conditions already allow for rehabilitation and therefore no further amendment is required.
- After complying with s.46 (8) of the EP Act, the Minister may issue a statement of decision to include conditions 6-1(2) and 7-1(4) and change conditions 8-1(3), 8-1(4) and 8-8(2), Figure 4 and Schedule 2 of MS 1118 in the manner provided for in the attached recommended statement (Appendix 1).

References

Covalent 2020, Earl Grey Lithium Project Ministerial Statement 1118, Request for Section 46 review of Conditions, Revision 1 5 August 2020.

Covalent 2020b, Request for Section 46 Review of Conditions, Ministerial Statement 1118, Earl Grey Lithium Project, Revision 1, 1 December 2020.

EPA 2016a, *Environmental Factor Guideline – Flora and Vegetation*, Environmental Protection Authority, Perth, WA.

EPA 2016b, *Technical Guidance – Flora and Vegetation Surveys for Environmental Impact Assessment*, Environmental Protection Authority, Perth, WA.

EPA 2016c, *Environmental Factor Guideline – Terrestrial Fauna*, Environmental Protection Authority, Perth, WA.

EPA 2020a, *Statement of Environmental Principles, Factors and Objectives*, Environmental Protection Authority, Perth, WA.

EPA 2020b, *Environmental Impact Assessment (Part IV Division 1 and 2) Procedures Manual*, Environmental Protection Authority, Perth, WA.

EPA 2020c, *Technical Guidance – Terrestrial Vertebrate Fauna Surveys for Environmental Impact Assessment*, Environmental Protection Authority, Perth, WA.

NRMT 2019, National Malleefowl Monitoring Manual: Edition 2019_1. National Malleefowl Recovery Team 2019,

State of Western Australia 2016, *Western Australian Government Gazette*, No. 223, 13 December 2016.

Appendix 1: Identified Decision-Making Authorities and Recommended Environmental Conditions

Identified Decision-Making Authorities

The decision-making authorities (DMAs) in the table below have been identified for the purposes of s. 45 as applied by s. 46(8) of the *Environmental Protection Act 1986*.

Decision-Making Authority	Legislation (and Approval)
1. Minister for Environment	<i>Biodiversity Conservation Act 2016</i> (Taking of flora and fauna)
2. Minister for Water	<i>Rights in Water and Irrigation Act 1914</i> (Water abstraction licence)
3. Minister for Mines and Petroleum	<i>Mining Act 1978</i> (Mining Lease)
4. Chief Executive Officer, Department of Water and Environmental Regulation	<i>Environmental Protection Act 1986</i> (Works Approval and Licence, Clearing Permit)
5. Executive Director, Resource and Environmental Compliance Division, Department of Mines, Industry Regulation and Safety	<i>Mining Act 1978</i> (Mining proposal)
6. State Mining Engineer, Department of Mines, Industry Regulation and Safety	<i>Mines Safety and Inspection Act 1994</i> (Mine safety)
7. Chief Dangerous Goods Officer, Department of Mines, Industry Regulation and Safety	<i>Dangerous Goods Safety Act 2004</i> (Storage and handling of dangerous goods)
8. Chief Executive Officer Shire of Yilgarn	<i>Planning and Development Act 2005</i> (Planning approvals) <i>Building Act 2011</i> (Decision maker for permits and development approvals) <i>Local Government Act 1995</i> <i>Health Act 1911</i> <i>Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974.</i>

Note: In this instance, agreement is only required with DMA 1, 2 and 3 since these DMA's are a Ministers.

**STATEMENT TO CHANGE THE IMPLEMENTATION CONDITIONS APPLYING TO
A PROPOSAL
(Section 46 of the *Environmental Protection Act 1986*)**

EARL GREY LITHIUM PROJECT

Proposal: Proposal to develop a pegmatite-hosted lithium deposit at the abandoned Mt Holland mine site, located 105 km south-southeast of Southern Cross, Shire of Yilgarn.

Proponent: Covalent Lithium Pty Ltd
Australian Company Number 623 090 139

Proponent Address: Level 18, 109 St Georges Terrace, Perth WA 6000

Report of the Environmental Protection Authority: 1697

Previous Report Relating to this Proposal: 1651

Preceding Statement/s Relating to this Proposal: 1118

Pursuant to section 45 of the *Environmental Protection Act 1986*, as applied by section 46(8), it has been agreed that the implementation conditions set out in Ministerial Statement No 1118, be changed as specified in this Statement.

Condition 6-1 of Ministerial Statement 1118 is amended by adding 6-1(2):

6-1(2) The proponent shall ensure there are no proposal related impacts to more than 9,732 individuals of *Microcorys elatoides* and 2 individuals of *Banksia sphaerocarpa var. dolichostyla*.

Condition 7-1 of Ministerial Statement 1118 is amended by adding 7-1(4):

7-1(4) The proponent shall ensure there is no proposal-related direct or adverse indirect impacts to Malleefowl from feral animals in the Development Envelope by controlling feral animals within, and a three kilometre buffer surrounding, the Development Envelope.

Condition 8-1 of Ministerial Statement 1118 is deleted and replaced with:

The proponent shall undertake offsets with the objective of counterbalancing the significant residual impact on the following environmental values:

- (1) 386 ha of foraging and breeding habitat for malleefowl (*Leipoa ocellata*);

- (2) 386 ha of foraging and potential breeding habitat for chuditch (*Dasyurus geoffroi*);
- (3) 2 individuals of Ironcap Banksia (*Banksia sphaerocarpa var. dolichostyla*); and
- (4) 9,732 individuals of *Microcorys elatoides*,

as a result of the implementation of the proposal, as defined in Table 2 of Schedule 1 and delineated by coordinates in Schedule 2.

Condition 8-8 of Ministerial Statement 1118 is deleted and replaced with:

The Flora Offset Strategy required by condition 8-7 shall:

- (1) identify an area, or areas, to be protected, managed and/or rehabilitated for conservation that contains the flora values identified in condition 8-1 on advice of the Department of Biodiversity, Conservation and Attractions;
- (2) demonstrate how the proposed offset counterbalances the significant residual impact to 2 individuals of *Banksia sphaerocarpa var. dolichostyla* and 9,732 individuals of *Microcorys elatoides*, as identified in condition 8-1 through application of the principles and completion of the WA Offsets Template, as described in the *WA Environmental Offsets Guidelines 2014*, and the *Environment Protection and Biodiversity Conservation Act 1999 - Environmental Offsets Policy Assessment Guide* (October 2012), or any approved updates of these guidelines;
- (3) identify the environmental values of the offset area(s);
- (4) identify and commit to a protection mechanism for any area(s) of land acquisition, being either the area(s) is ceded to the Crown for the purpose of management for conservation, or the area(s) is managed under other suitable mechanisms for the purpose of conservation as agreed by the CEO;
- (5) if any land is to be ceded to the Crown for the purpose of management for conservation, the proponent will identify:
 - (a) the quantum of, and provide funds for, the upfront works associated with establishing the conservation area;
 - (b) the quantum of, and provide a contribution of funds for, the management of this area for seven (7) years after completion of purchase; and
 - (c) an appropriate management body for the ceded land;

- (6) where rehabilitation and/or other on-ground actions are proposed, state the objectives and targets to be achieved, including completion criteria, which demonstrate;
 - (a) how on-ground management or rehabilitation actions will result in a tangible improvement to the environmental value(s) being offset; and
 - (b) the consistency of the objectives and targets with the objectives of any relevant Recovery Plans or area management plans;
- (7) detail the management and/or rehabilitation actions and a timeframe for the actions to be undertaken;
- (8) detail any funding arrangements and timing of funding for conservation activities;
- (9) detail the monitoring, reporting and evaluation mechanisms for management and/or rehabilitation actions; and
- (10) define the role of the proponent and/or any relevant management authority.



Figure 4: Malleefowl Mound Exclusion Zones

Schedule 2

All coordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 1994 (GDA94).

Coordinates defining the areas shown in Figures 3 and 4 of Schedule 1, and referred to in Ministerial Conditions 6 and 7 are held by the Department of Water and Environmental Regulation under the following reference numbers:

Development Envelope DWERDT199591

Conservation Significant Flora Exclusion Zones DWERDT199595

Malleefowl Mound Exclusion Zones DWERDT355557