



Environmental
Protection
Authority

Wingellina Nickel Project – inquiry under section 46 of the
Environmental Protection Act 1986 to amend Ministerial
statement 1034

Hinckley Range Pty Ltd

Report 1762
April 2024

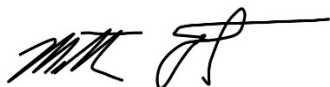
Inquiry under section 46 of the *Environmental Protection Act 1986*

The Minister for Environment has requested that the Environmental Protection Authority (EPA) inquire into and report on the matter of amending the implementation condition 3 (time limit of authorisation for substantial commencement of the proposal) and condition 6 (submit a survey plan in relation to flora species *Goodenia sp.aff. quasilibera*) of Ministerial Statement 1034 relating to the Wingellina Nickel 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 amended
- (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*.



Prof. Matthew Tonts
Chair

12 April 2024

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1 Proposal

The Wingellina Nickel Project (the proposal) is to mine nickeliferous limonite ore from the Wingellina deposit located approximately 1,400 km north-east of Perth. The statement was originally issued to Hinckley Range Pty Ltd which has been acquired¹ by, and is now a subsidiary of, Nico Resources Ltd.

The Environmental Protection Authority (EPA) assessed the proposal at the level of Public Environmental Review and published its report in June 2016 (EPA report 1568). In this report, the EPA considered the following key environmental factors were relevant to the proposal:

- air quality and atmospheric gases
- flora and vegetation
- rehabilitation and decommissioning (integrating factor).

In applying the *Statement of environmental principles, factors, objectives and aims of EIA* (EPA 2023) these factors are now represented by:

- air quality
- greenhouse gas emissions
- flora and vegetation.

The EPA concluded in report 1568, that it “...has developed a set of conditions that the EPA recommends be imposed if the proposal by Hinckley Range Pty Ltd to develop and operate the Wingellina Nickel Mine and associated infrastructure is approved for implementation”.

The then Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement 1034 (MS 1034) on 1 September 2016.

Previously approved amendments to the proposal or conditions

There have been no amendments to the proposal or to the implementation conditions since MS 1034 was issued.

¹ Nico Resources Limited acquired Hinckley Range Pty Ltd on the 7th January 2022 from Metals X Limited.

2 Requested amendments to the conditions

In September 2021, the proponent requested the following amendments to the implementation conditions of MS 1034:

- Condition 3, which states that the proponent shall not commence implementation of the proposal after five (5) years from the date of the Statement (1 September 2016), and any commencement, prior to this date, must be substantial.
- Condition 6, which requires the proponent to prepare and submit a survey plan in relation to flora species *Goodenia sp. aff. quasilibera*.

The proponent requests that condition 3 be modified to extend the authorised time limit for substantial commencement and that condition 6 be removed based on new information relating to the classification and distribution of *Goodenia sp. aff. quasilibera*.

In February 2022, the Minister for Environment requested that the EPA inquire into and report on the matter of amending the implementation conditions of MS 1034. The Minister also requested the EPA consider changes to all conditions during the time extension and whether additional conditions for Aboriginal heritage and greenhouse gas emissions should be required for this proposal.

This report satisfies the requirements of the EPA's inquiry.

3 Inquiry into amending the conditions

The EPA typically recommends the Minister for Environment sets conditions on significant proposals that require them to be substantially commenced within a specified timeframe. Extending this timeframe requires the Minister to change the relevant conditions under s. 46 of the *Environmental Protection Act 1986* (EP Act) and provides for the EPA to review and consider the appropriateness of the implementation conditions relating to the proposal.

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 (EPA Report 1568)
- Ministerial Statement 1034
- information provided by the proponent (Stantec 2021)
- advice from relevant decision-making authorities
- any new information regarding the potential impacts of the proposal on the environment
- whether any new environmental factors may be relevant since the original assessment of the proposal.

EPA procedures

The EPA followed the procedures in the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2021* (State of Western Australia 2021) and the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (EPA 2021).

4 Inquiry findings

The EPA considers that flora and vegetation is a key environmental factor relevant to amending the conditions. The EPA has also considered the following environmental factors as part of this enquiry:

- greenhouse gas emissions
- social surroundings.

4.1 Flora and vegetation

The EPA environmental objective for flora and vegetation is *to protect flora and vegetation so that biological diversity and ecological integrity are maintained* (EPA 2016a).

Conclusions from EPA Report 1568

Five populations of a newly discovered flora species *Goodenia* sp. aff. *quasilibera* (L. Ransom 868) were recorded within 10 metres (m) of the proposed borefield access track and drill line route. At the time of writing (EPA report 1568), it was understood they were likely to be eligible for listing as a Priority 1² flora species. The new species had only been collected from two locations, one of which was in the proposal area. Neither of the locations was within a conservation reserve (EPA 2016).

To minimise impacts to *Goodenia* sp. aff. *quasilibera* (L. Ransom 868) at the species and population level, the EPA recommended condition 6 requiring a survey plan be submitted prior to ground disturbing activities. The survey plan would require the proponent to determine the presence of *Goodenia* sp. aff. *quasilibera* within the area of the site, and required that the final alignment of infrastructure would either avoid or minimise impacts to the species.

Assessment of the requested amendment 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 2016).

Update to flora and vegetation

The proponent's review of the environmental factors relating to the proposal did not find any significant changes to the proposal or environmental setting for flora and vegetation (Stantec 2021). The proponent has not proposed any additional disturbance to flora and vegetation. No additional or new vegetation/flora surveys have been undertaken since the proposal was approved.

² Priority 1: Poorly-known species that are known from one or a few locations (generally five or less) which are potentially at risk. All occurrences are either: very small; or on lands not managed for conservation.

As part of this s. 46 inquiry, the proponent provided updated information in relation to the flora and vegetation matters addressed in Report 1568. The EPA also investigated into whether there were any new matters that have arisen since the proposal was approved by the Minister for Environment on 1 September 2016.

A review of the Protected Matters Search Tool and the DBCA Threatened and Priority Flora, Fauna and Ecological Communities Database indicated no new Threatened or Priority Ecological Communities (TECs/PECs) had been recorded in the Study Area since the proposal had been approved. There were also no changes in the conservation rating of flora or vegetation communities recorded in the area.

Goodenia sp. aff. quasilibera

The Department of Biodiversity, Conservation and Attractions (DBCA) confirmed on 26 March 2024 that *Goodenia sp. aff. quasilibera* has now been formally described as *Goodenia asteriscus*, a Priority 3³ species. They state that limited population estimates associated with the records appear to indicate infrequent occurrences of the species. However, additional populations have been described by Lang and Davis (2017) and Western Botanical (2020):

- Lang and Davies (2017) state that the recorded *Goodenia sp. aff. quasilibera* resembles *Goodenia asteriscus* as depicted in Figure 9 of their paper. They indicate that the current known distribution of *G. asteriscus* spans from Cavenagh Range in Western Australia to Mt Lindsay (Watarru) in the north west region of South Australia and has also been reported within the Northern Territory.
- Western Botanical (2020) identified 299 populations of *G. asteriscus* in a survey conducted approximately 60 kilometres (km) west of the Wingellina project area, 31 populations of which would be impacted by mining activities in that area (West Musgrave Copper and Nickel Project).

The known distribution of the *G. asteriscus* species is therefore beyond the development envelope. Florabase (2023) records concur with this distribution.

In considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA considers that there is no new significant or additional information that justifies the reassessment of flora and vegetation for this proposal.

Regarding the proponent's request to remove condition 6 regarding *Goodenia sp. aff. quasilibera*, considering the information provided by the proponent (reclassification of the species to Priority 3), DBCA and relevant EPA policies and guidelines, the EPA considers that this condition is no longer required and can be deleted from MS 1034.

The EPA is therefore satisfied that the revised condition 3 for the extension of Time Limit for Proposal Implementation for an additional five years would, when

³ Priority 3: Poorly-known species that are known from several locations, and the species does not appear to be under imminent threat, or from few but widespread locations with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat (DBCA, 2019).

implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for flora and vegetation.

4.2 Other environmental factors – Social surroundings

EPA report 1568 did not consider heritage and amenity as key environmental factors; however, the EPA considered a review of Aboriginal heritage matters and amenity was required as part of this inquiry. In applying the *Statement of environmental principles, factors and objectives and aims of EIA* (EPA 2023b) these are now described as part of the social surroundings factor.

The EPA's environmental objective for social surroundings is *to protect social surroundings from significant harm*.

Conclusions from EPA Report 1568

Aboriginal heritage and culture

While heritage was identified as a preliminary key environmental factor in the Environmental Scoping Document, the EPA considered that the proposal was unlikely to have a significant impact on heritage and could meet the objectives of this factor. The EPA therefore did not identify heritage as a key factor at the conclusion of its assessment.

The proponent (Hinckley Range Pty Ltd) completed heritage surveys in consultation with the Ngaanyatjarra Council, representing the Traditional Owners of the area, between 2001 and 2008. The surveys identified the presence of 35 archaeological places and ten ethnographic 'exclusion zones' on tenement E69/535. It was understood that all ten of the exclusion zones and 33 of the 35 archaeological places could be avoided by the proposed works and that the proponent would seek consent under section 18 of the *Aboriginal Heritage Act 1972* (the AH Act) to impact heritage places that could not be avoided prior to any ground disturbance in those areas.

The EPA report noted that the "Proponent holds a mining agreement with the Traditional Owners and Native Title Holders of the Project area and that the agreement includes mechanisms for the protection and management of Aboriginal heritage".

Amenity – Wingellina township

Whilst amenity was identified as a preliminary environmental factor for potential impacts to the Wingellina township (Figure 1), it was not considered a key environmental factor at the conclusion of the EPA's assessment.

As part of the Public Environmental Review document, the proponent submitted the following to the EPA for assessment:

- a light impact assessment
- an environmental noise assessment
- a health risk assessment

- air quality modelling.

Having regard to relevant guidance statements at the time and given that:

- predicted fugitive particulate emission concentrations, noise and vibration levels at nearby sensitive receptors were within applicable criteria
- impacts from light spill were not expected to be significant at nearby sensitive receptors (Wingellina township).

The EPA considered it was unlikely that the proposal would have a significant impact on amenity and the proposal could meet the objectives for this factor.

The EPA assessed air quality modelling as part of its assessment of the Air Quality and Atmospheric gases factor and modelled results for NO₂, SO₂, PM₁₀, PM_{2.5}, TSP, and H₂SO₄ ground level concentrations (GLCs) and dust deposition rates at sensitive receptors were predicted to comply with applicable air quality criteria. The EPA recommended conditions in Report 1568 for air quality, however during the appeals process it was determined that air quality emissions would be more appropriately regulated under a Works Approval and Licence issued under Part V of the *Environmental Protection Act 1986*.

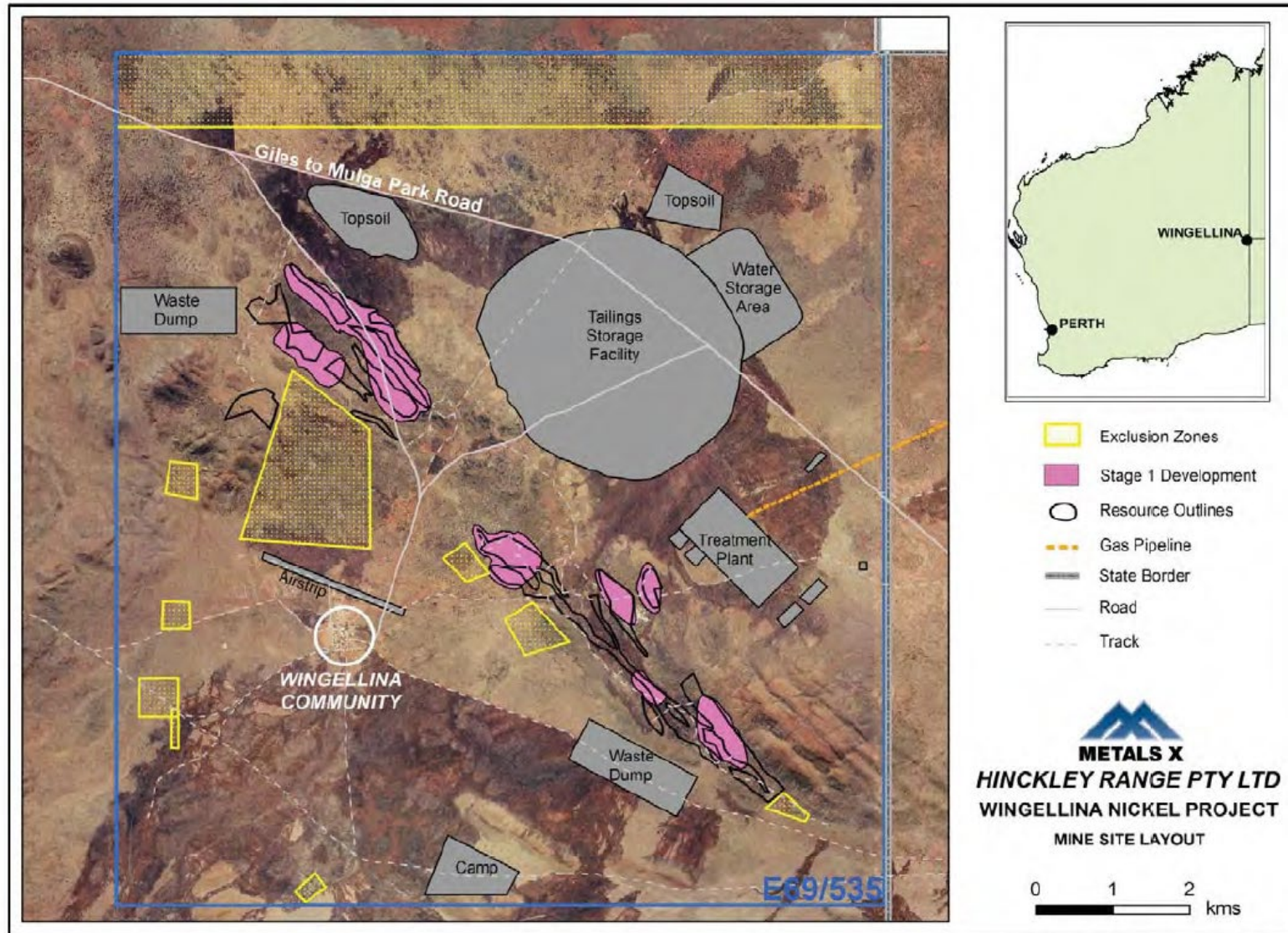


Figure 1: Location of the Wingellina (Irrunytju) community

Assessment

After EPA report 1568 was published (June 2016), the EPA released the Social Surroundings Environmental Factor Guideline in December 2016, with the most recent version published in November 2023.

The EPA considers that the following current environmental policy and guidance are now relevant to its assessment for this factor:

- *Environmental Factor Guideline – Social surroundings* (EPA 2023)
- *Technical Guidance Environmental impact assessment of Social Surroundings – Aboriginal cultural heritage* (EPA 2023b)
- Statement of Environmental Principles, Factors and Objectives and Aims of EIA (EPA 2016, revised 2023).

Aboriginal heritage and culture – southern borefield and pipeline

Ethnographic and archaeological surveys for the southern borefield (L69/12) and water supply pipeline corridor were not provided as part of the original EPA assessment.

EPA services requested, as part of this s46 inquiry, additional information on heritage values within the southern borefield and the water pipeline. In response, Nico Resources provided a Heritage Survey Report (Nico Resources 2023) summarising heritage surveys which have been conducted along the pipeline route and in the borefield area to date. This included a summary of six limited surveys undertaken between 2007 and 2011. The report stated that the original surveys were confidential and could not be provided.

The EPA notes that previous surveys conducted in 2011 (Nico Resources 2023) identify numerous heritage exclusion zones for both the southern borefield and the pipeline corridor (refer Figure 2 and Figure 3). Considering this, and the age of the previous surveys, the EPA requested information as to whether the Ngaanyatjarra Council considered the consultation process sufficient given the potential impacts to heritage values.

The Ngaanyatjarra Council advised that preliminary consultation has been undertaken with the relevant Traditional Owners, however that further consultation and heritage surveys would be required to complete the consultation process for these areas. The Ngaanyatjarra Council also confirmed the advice provided by Nico Resources (2023), noting that during the previous surveys the Traditional Owners understood that their cultural heritage would be impacted by the proposal, however, were willing to collaborate to see if it would be achievable to build the pipeline without damage to cultural heritage sites. The Ngaanyatjarra Council expressed support for an updated cultural heritage management plan (CHMP) for the proposal, in addition to requirements for further consultation and surveys.

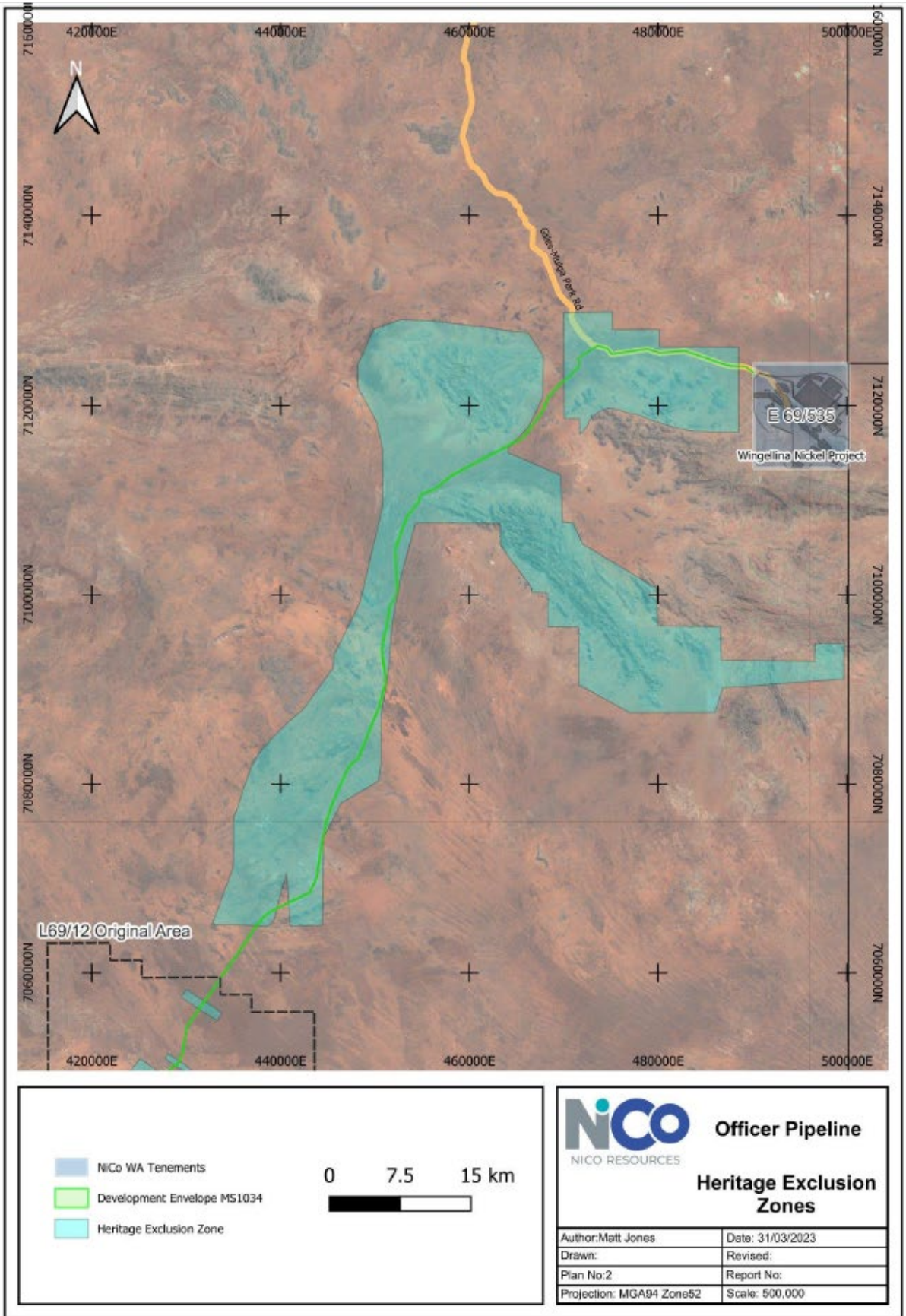


Figure 2: Heritage exclusion zones (Brooks 2011) within water pipeline corridor and surrounding area.

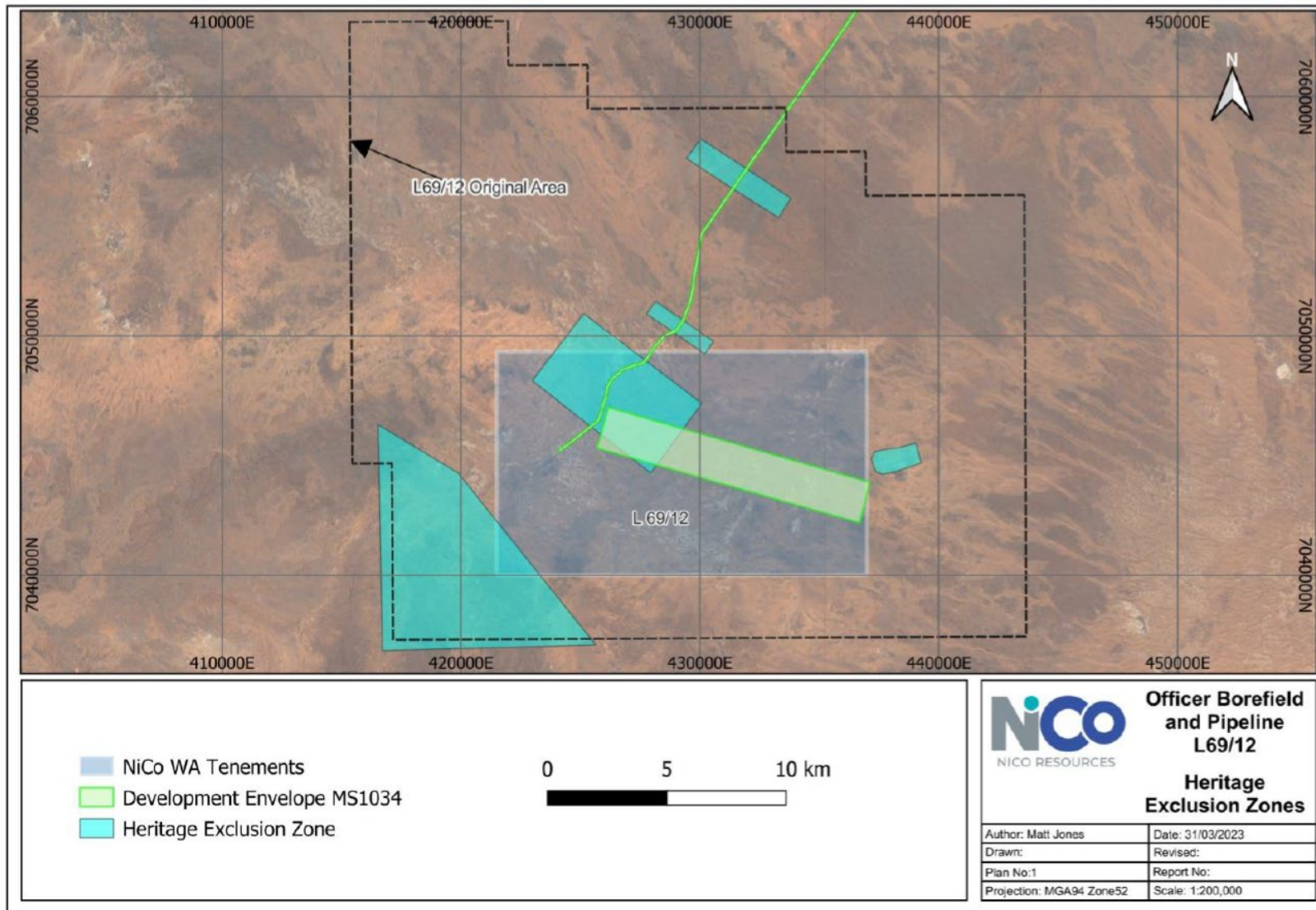


Figure 3: Heritage exclusion zones (Brooks 2011) within southern borefield (L69/12)

The proponent identified that they have a mining agreement with the Traditional Owners and Native Title holders⁴ of the Wingellina Project area through their representative bodies:

- the Yarnangu Ngaanyatjarraku Parna Aboriginal Corporation
- the Ngaanyatjarra Land Council (Aboriginal Corporation)
- the Ngaanyatjarra Council (Aboriginal Corporation).

This mining agreement, signed in 2010, commits the proponent to the following measures, as a minimum:

- establishment of Aboriginal Heritage exclusion zones
- development of a Cultural Heritage Management Plan (CHMP)
- establishment of a panel of Heritage Monitors
- continued support for an Aboriginal Liaison officer
- cultural awareness training of Company Personnel.

The proponent has advised that that further surveys and consultation would be undertaken as part of their CHMP, and consultation regarding the proposal has recommenced.

The EPA advises that the proponent will require consent from the Minister for Aboriginal Affairs to alter Aboriginal sites under the AH Act. The proponent has also advised that consent will be sought under the relevant legislation for the disturbance of any sites that cannot be avoided, and that their CHMP is likely to be a component of their application under section 18 of the AH Act. The proponent has also advised that it will work with the Ngaanyatjarra people to ensure all heritage features identified that meet the definition of an Aboriginal site in section 5 of the AH Act are reported to Department of Planning Lands and Heritage (DPLH).

The EPA is satisfied that the processes provided for under the AH Act can mitigate potential direct impacts to Aboriginal sites within the proposal footprint to meet the EPA's objectives in the development envelope because:

- the Aboriginal Cultural Heritage Committee must evaluate the importance and significance of the sites and make a recommendation to the Minister for Aboriginal Affairs before the alteration occurs
- the Minister for Aboriginal Affairs' consent is required before the alteration occurs
- new information about Aboriginal sites which are found after a consent has been granted must be notified to the Minister for Aboriginal Affairs
- the consultation policy (DPLH 2023) for the AH Act expects that all relevant Traditional Owners are consulted before consent is considered

⁴ The Wingellina project area falls within the Ngaanyatjarra Lands (Area A) native title determination area (federal court reference WAD6004/2004).

- provisions relating to the protection of Aboriginal sites apply even if sites or relevant heritage features are not registered or lodged with DPLH
- the AH Act makes it an obligation to report Aboriginal cultural sites or objects to DPLH
- consent can include conditions for the protection, mitigation or management of sites in the consent area
- relevant Traditional Owners can apply to the State Administrative Tribunal for a review of the Minister’s decision.

The EPA considers its factor objective is likely to be met in respect of direct impacts to Aboriginal cultural heritage subject to operation of the AH Act and has recommended new conditions 6 requiring no disturbance to Aboriginal cultural heritage sites as identified in consultation with the Ngaanyatjarra people, unless consent is granted to disturb that site under the AH Act, no loss of access to land used by the Ngaanyatjarra community, and requiring the proponent to take reasonable steps to consult with the Ngaanyatjarra people for the life of the proposal.

The EPA is therefore satisfied that condition 3 for the extension of time limit for the proposal implementation for an additional five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for social surroundings (heritage).

Amenity – Wingellina township

The original mining agreement between Hinckley Range Pty Ltd and the Traditional Owners included provision for relocating the Wingellina community (Irrunytju) given the close proximity of the mine site. The matter was raised during the original assessment, however as identified above, EPA report 1568 assessed the potential impacts to the Irrunytju township as if the relocation would not occur.

The EPA received correspondence from the Ngaanyatjarra Council on 28 March 2023, 31 July 2023 and 8 August 2023 which included the following concerns:

- the mining agreement and consultation with Irrunytju community indicated that the community would be moved however, the proponent has indicated it does not intend to relocate the community
- a request that the EPA assess the social surroundings impacts of the proposal and that the mine will have associated noise, dust and traffic impacts on the Irrunytju community
- a request the proponent undertake further consultation with the Irrunytju community and their representatives to avoid potential impacts to the community.

In particular, the Ngaanyatjarra Council raised that significant time has passed since the last comprehensive consultation regarding the mine in relation to the community, and that further consultation and input from community residents is required.

The proponent has advised that a condition of the mining agreement is to relocate the community. However, they further advised that “*the decision of whether to*

relocate the community or not is a matter for the residents of Irrunytju. Nico would be supportive of either decision by the Wingellina residents”.

Should the residents decide to remain at Irrunytju, Nico Resources have indicated that a component of the CHMP shall include measures to monitor and manage any potential impacts to amenity. If the residents decide to relocate the community, then these aspects shall be amended in the CHMP.

The EPA notes that the time limit extension does not include any changes to the proposal that may affect emissions or discharges. The proponent’s review of the matters relating to air quality and amenity for the proposal did not consider that any significant changes to the proposal or environmental setting would change the EPA’s conclusions for Report 1568 (Stantec 2021). In considering the information provided by the proponent, from Traditional Owners and relevant EPA policies and guidelines, and given that:

- EPA report 1568 assessed potential impacts to the Wingellina (Irrunytju) township on the assumption the township would not be moved
- light, noise and air quality modelling have been previously submitted to the EPA for consideration under the amenity factor and it was considered that the proposal was unlikely to impact township amenity
- the cultural heritage management plan required under the mining agreement will include provisions for amenity impacts.

The EPA has recommended new condition 6-3 requiring the proponent to take reasonable steps to consult with the Ngaanyatjarra people regarding potential amenity impacts that may result from construction and operation of the proposal. Details relating to emissions and discharges (noise and dust) from types of activities and premises can be assessed, managed and regulated by instruments required under Part V of the EP Act.

The EPA is therefore satisfied that condition 3 for the extension of time limit for the proposal implementation for an additional five years would, when implemented, ensure that the outcome of proposal would be consistent with the EPA objective for social surroundings (amenity).

4.3 Other environmental factors – Greenhouse gas emissions

In April 2020, greenhouse gas emissions (GHG) was added as an environmental factor to be considered by the EPA in the environmental impact assessment process. The EPA's environmental objective for GHG is to *minimise the risk of environmental harm associated with climate change by reducing greenhouse gas emissions as far as practicable*.

The EPA's *Environmental Factor Guideline – Greenhouse Gas Emissions* (EPA 2023) sets out that, generally emissions from a proposal will be assessed where they exceed 100,000 tonnes of scope 1 GHG emissions each year, measured in carbon dioxide equivalent (CO₂-e).

Conclusions from EPA Report 1568

At the time of the original assessment for the proposal approved under MS 1034, the EPA identified air quality and atmospheric gases as a key environmental factor. Greenhouse gas emissions were considered as part of this factor. The EPA considered that the predicted emissions of 0.5 megatonnes per annum (Mtpa) for the Wingellina project (0.7% of the state's greenhouse gas emissions of 70.5 Mt of CO₂-e in 2011-12) did not have the potential to significantly increase the state's greenhouse gas emissions. The EPA applied this guidance, as it reflected the EPA's policy position at the time. Therefore, the EPA did not assess greenhouse gas emissions further as part of the key environmental factor of Air Quality and Atmospheric Gases.

Assessment of the requested amendment to conditions

The proponent has provided a draft GHG management plan (20 December 2022) and subsequent clarifications to the department (18 March 2024). The proposal's estimated scope 1 emissions are approximately 462,200 tonnes (0.46 mega tonnes [Mt]) of carbon dioxide equivalent (CO₂-e) per year during normal operations. This estimate is based on a maximum mining rate of 40 Mtpa. As power for the project will be generated on site, scope 2 emissions have been included as scope 1 emissions. Scope 1 and 2 emissions are therefore addressed in the GHG management plan.

The total estimated GHG for the first 20 years⁵ of the project are 9,244,000 tCO₂-e, which equates to annual baseline emissions, during normal operations, of up to 462,200 tCO₂-e per annum. The estimated GHG emissions intensity of the proposal during normal operations is approximately 0.12 tCO₂-e per tonne of milled ore, or 11.6 tCO₂-e per tonne of metal produced (Stantec 2021). The activities include neutralisation of tailings, electricity production, Nickel-Cobalt ore mining, calcrete operations and ancillary activities (e.g. diesel generator etc). The proponent has advised that the emissions intensity of 11.6 tCO₂-e per tonne of metal produced is comparable to similar Nickel mining and processing plants operating in Western Australia.

⁵ The proposal lifespan is estimated to be 40 years.

A final GHG management plan, incorporating a detailed decarbonisation strategy, was not provided by the proponent as detailed mine planning has not been finalised. The proponent has advised that it expects emissions reductions will be achieved through the electrification of mining equipment, the use of renewable energy sources comprising solar, wind, steam generation from the process plant, and the use of battery storage for the project’s power generation. The proponent has also advised that as neutralisation of tailings accounts for 65.6% of the proposals total scope 1 emissions, alternative tailings neutralisation technologies will be explored from the beginning of the project operations phase onwards. The proponent has committed to implementing a commercially available method of abatement ahead of the targets for GHG emissions.

The proponent has advised that the decarbonisation strategy will be finalised prior to commencement of ground-disturbing activities works and will form part of the final GHG management plan. The proponent has also advised that the GHG emissions profile will be revised as the project becomes more refined and then validated during the operations phase.

The proponent has provided emissions reduction targets for scope 1 emissions for cumulative five-year periods, commencing in 2024 and continuing through to 2050. They have provided two sets of emissions reduction targets, one without and one with the use of carbon offsets (Figure 4 and Figure 5).

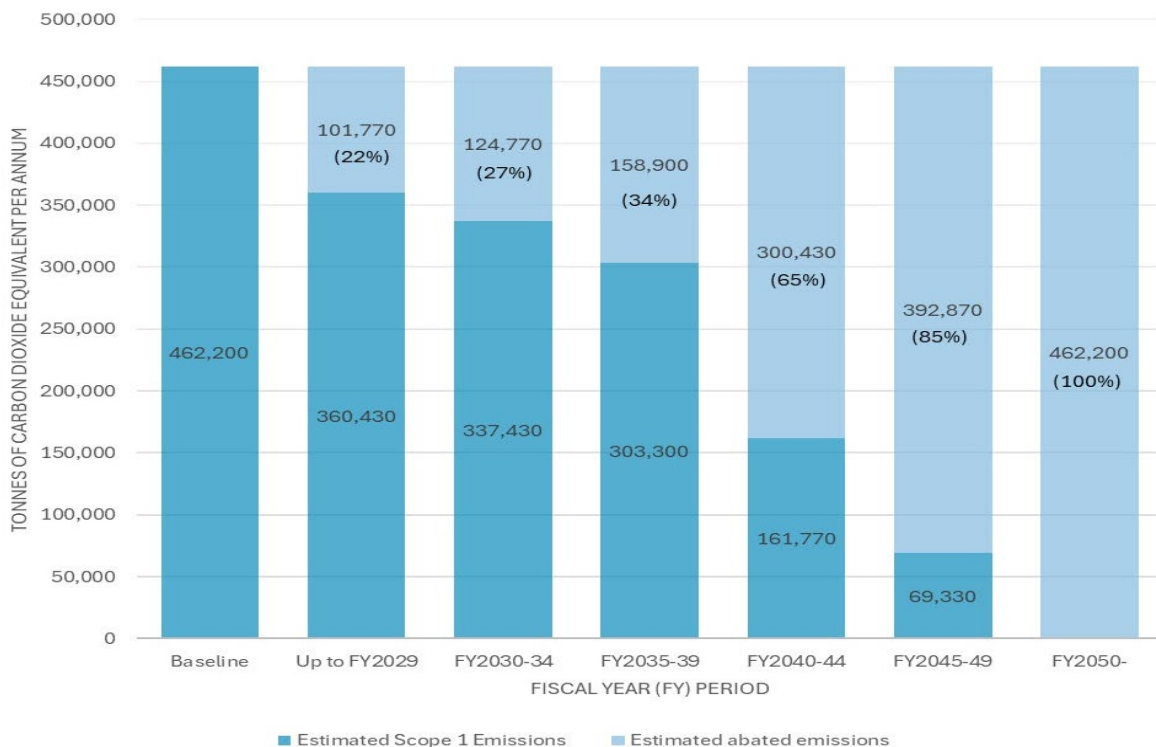


Figure 41: Wingellina Project greenhouse gas emissions (scope 1) reduction over five year periods without offsets

GHG emissions reductions targets given in Figure 4 do not follow a linear trajectory as required by EPA’s Environmental Factor Guideline for Greenhouse Gas emissions (2023). For GHG emissions reductions to follow a linear trajectory the proponent has provided a second set of targets (Figure 5), where linear emissions reductions will be achieved through the use of carbon offsets.

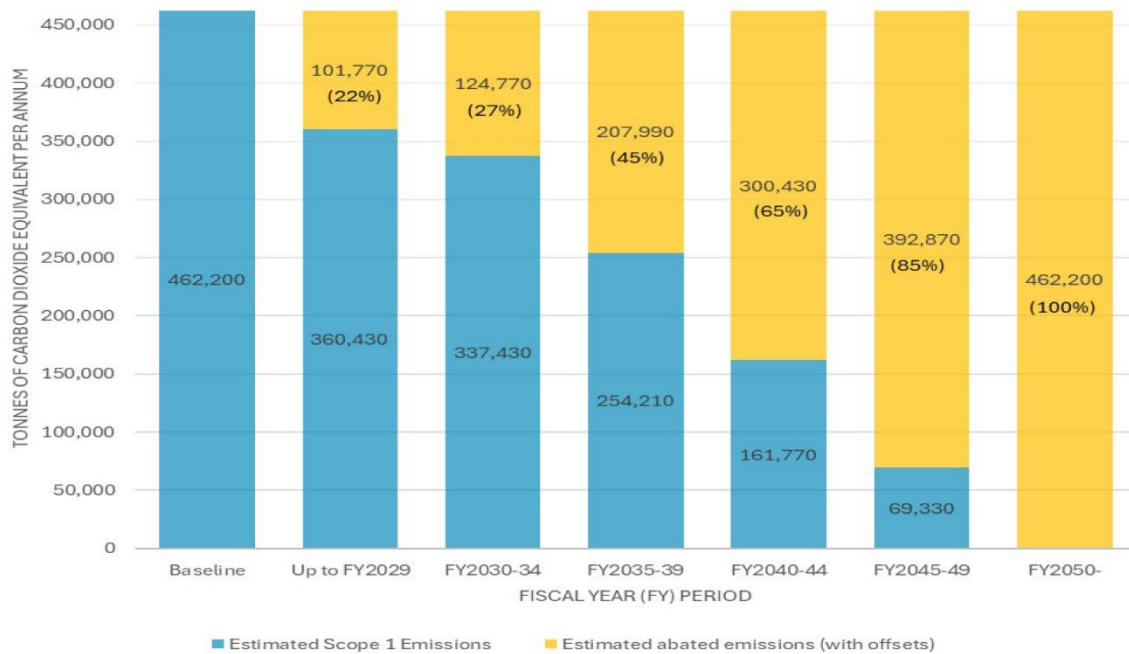


Figure 5:2 Wingellina project greenhouse gas emissions (scope 1) reduction following a linear trajectory by using carbon offsets.

The proponent has advised they will offset residual emissions that cannot be avoided or reduced to achieve linear reductions. The EPA advises that any carbon offsets which may be required to be surrendered at the end of a relevant reporting period as part of the proposal’s GHG EMP, should demonstrate they meet offset integrity principles, and be based on clear, enforceable, and accountable methods.

The proponent has advised that any carbon offsets required will be in the form of Australian Carbon Credit Units (ACCUs), which are administered by the Clean Energy Regulator and assured by the Emissions Reduction Assurance Committee (ERAC). The ERAC is an independent statutory committee which assesses ACCUs compliance against the Offsets Integrity Standards set out in section 113 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

The EPA notes that in response to recent concerns raised about the methodology used to verify some of the ACCUs, the ERAC has conducted a review, and the Commonwealth Government has conducted a further review. The EPA considers that by the time any offsets are required to be surrendered under the recommended conditions, there is likely to be sufficient assurance that ACCUs meet the legislated Offsets Integrity Standards.

The EPA also notes that, until emissions are under 100,000 CO₂-e per annum, the proponent will be subject to reporting requirements of the Clean Energy Regulator to comply with the *National Greenhouse and Energy Reporting Act 2007* (NGER Act), and also subject to the NGER Emissions Reduction Fund Safeguard which requires facilities whose net emissions exceed the safeguard threshold to keep emissions at or below baseline.

Noting the above, the proponent has proposed a linear GHG emissions reduction trajectory (which will incorporate offsets) and commences from a baseline quantity of 462,200 tonnes of CO₂-e per year from financial year 2024 (FY2024), with the targets as follows:

- 360,430 tonnes of CO₂-e for up to FY2029 (22%)
- 337,430 tonnes of CO₂-e for FY2030 to FY2034 (27%)
- 254,210 tonnes of CO₂-e for FY2035 to FY2039 (45%)
- 161,770 tonnes of CO₂-e for FY2040 to FY2044 (65%)
- 69,330 tonnes of CO₂-e for FY2045 to FY2049 (85%)
- zero tonnes of CO₂-e for FY2050 onwards.

Conclusions

In consideration of the information provided by the proponent and relevant EPA policies and guidelines, the EPA recommends a new condition requiring a revised GHG management plan prior to commencement of ground-disturbing activities for the proposal to be consistent with the EPA's environmental factor guideline. The EPA will condition the linear reductions proposed by Nico Resources and the new GHG management plan must include measures to ensure that net GHG emissions do not exceed these proposed reduction targets.

The EPA considers that the proposed GHG emissions reduction trajectory for the proposal is reasonable as it includes linear and meaningful cuts in emissions which are broadly in line with government and public expectations. The EPA is therefore satisfied that condition 3 for the extension of time limit for the proposal implementation for an additional five years would, when implemented, ensure that the outcome of the proposal would be consistent with the EPA objective for greenhouse gas emissions.

5 Conclusions and recommendations

Amendment to condition 3

The proponent has requested an amendment to condition 3 to extend the time limit for proposal implementation. The EPA considers it is appropriate to amend condition 3 and extend the time limit for proposal implementation by five years from the publication date of the Ministerial Statement resulting from this report.

Removal of condition 6

The proponent has requested removal of condition 6 based on new information regarding the classification and distribution of *Goodenia sp. aff. quasilibera*. The EPA considers it is appropriate to remove the condition based on this additional information.

Addition of new condition 6

The EPA considers it appropriate for the addition of condition 6, requiring that the proponent avoid significant cultural heritage values as identified in consultation with Traditional Owners, and to consult on impacts to amenity.

Addition of condition 7

The EPA considers it appropriate for the addition of condition 7 requiring the revision and implementation of a greenhouse gas management plan to ensure that the proposal achieves progressive and linear greenhouse gas reduction, including achieving net zero no later than 2050.

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 are no amendments to the proposal associated with the request to amend the condition
- aside from provision of new information regarding the *Goodenia sp. aff. quasilibera*, there is no significant new or additional information that changes the conclusions reached by the EPA under the relevant environmental factors since the proposal was assessed by the EPA in report 1568 (June 2016)
- new significant environmental factors have arisen since the EPA's original assessment of the proposal including greenhouse gas emissions and the social surroundings factor (Aboriginal heritage and amenity)
- impacts to the key environmental factors are considered manageable, based on the requirements of the original conditions retained in Ministerial Statement 1034, and the imposition of the attached recommended conditions (Appendix B)
- the authorised timeframe for substantial commencement for the proposal may be extended by five years as requested.

Recommendations

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

1. while retaining the environmental requirements of the original conditions of MS 1034, it is appropriate to delete condition 3 and replace it with a new implementation condition extending the authorised timeframe for substantial commencement of the proposal by five years
2. based on additional information regarding the classification and distribution of *Goodenia sp. aff. quasilibera* it is appropriate to remove implementation condition 6
3. it is appropriate to add a new condition (condition 6) requiring the proponent to avoid significant cultural heritage values as identified in consultation with Traditional Owners
4. to ensure that the proposal reduces greenhouse gas emissions to achieve net zero no later than 2050, it is appropriate to add a new condition (condition 7) requiring the development and implementation of a greenhouse gas management plan
5. After complying with s. 46(8) of the EP Act, the Minister may issue a statement of decision to amend MS 1034 in the manner provided for in the attached recommended statement (Appendix B).

Appendix A: Assessment of proposed changes to implementation conditions of Ministerial statement 1034

Ministerial condition	Environmental factor	Proposed change	Assessment and evaluation of proposed changes
Ministerial statement 1034			
Condition 3 Time limit for proposal implementation	N/A	Delete and replace with a contemporary condition that extends the time limit for substantial commencement for a further five years from the date of the amendment statement.	The EPA's assessment found, aside from additional information regarding <i>Goodenia sp. aff. quasilibera</i> 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 assessed by the EPA in Report 1568 (June 2016). Therefore, it is appropriate to extend the time limit on substantial commencement for a further five years.
Condition 6	Flora and vegetation	Delete condition 6 (including 6-1 through to 6-5) requiring a survey plan be submitted prior to ground disturbing activities.	Based on new information regarding the classification and distribution of <i>Goodenia sp. aff. quasilibera</i> (confirmed by DBCA to be reclassified as <i>Goodenia asteriscus</i> which has a broader distribution beyond the Wingellina project development envelope), the condition has been removed.
N/A	Social surroundings	Add a new condition 6 requiring the proponent avoid significant cultural heritage values as identified in consultation with Traditional Owners.	Since the original assessment, a new condition has been recommended to manage potential impacts to heritage sites, particularly with respect to the area of the proposed pipeline and borefield.
N/A	Greenhouse gas emissions	Add a new condition 7 requiring the development and implementation of a greenhouse gas management plan.	A new condition has been recommended to ensure the proposal reduces greenhouse gas emissions to achieve net zero by at least 2050, consistent with the EPA's current policy position.

Appendix B: Recommended conditions

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

WINGELLINA NICKEL PROJECT

Proposal: To mine nickeliferous limonite ore from the Wingellina deposit located approximately 1,400 km north-east of Perth.

Proponent: Hinckley Range Pty Ltd
Australian Company Number 052 098 496

Proponent Address: Level 8, 216 St Georges Terrace, PERTH WA 6000

Report of the Environmental Protection Authority: 1762

Preceding Statement relating to this proposal: 1034

Introduction: 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.1034, be amended as specified in this Statement.

Condition 3 of Ministerial Statement 1034 is deleted and replaced with:

3 Time Limit for Proposal Implementation

- 3-1 The proposal must be substantially commenced within five (5) years from the date of this Statement.
- 3-2 The proponent must provide to the **CEO** documentary evidence demonstrating that they have complied with condition 3-1 no later than fourteen (14) days after the expiration of period specified in condition 3-1.
- 3-3 If the proposal has not been substantially commenced within the period specified in condition 3-1, implementation of the proposal must not be commenced or continued after the expiration of that period.

Condition 6 of Ministerial Statement 1034 is deleted

Addition of new Condition 6 to Ministerial Statement 1034

6 Aboriginal Cultural Heritage

- 6-1 The proponent must implement the proposal to meet the following environmental outcomes:
- (1) subject to reasonable health and safety requirements, no interruption of ongoing access to land utilised by the **Ngaanyatjarra community**; and
 - (2) no **disturbance to Aboriginal cultural heritage sites** as identified in consultation with the **Ngaanyatjarra people**, unless consent is granted to **disturb** that site under the *Aboriginal Heritage Act 1972*.
- 6-2 The proponent must **consult** with the **Ngaanyatjarra people** about the achievement of the **outcomes** in condition 6-1 for the life of the proposal.
- 6-3 The proponent must take reasonable steps to consult with the **Ngaanyatjarra community** about potential amenity impacts that may result from construction and operation of the proposal.

Addition of new Condition 7 to Ministerial Statement 1034

- 7-1 Subject to condition 7-2, the proponent shall take measures to ensure that **net GHG emissions** do not exceed:
- (1) 360,430 tonnes of CO₂-e for the period until 30 June 2029;
 - (2) 337,430 tonnes of CO₂-e for the period between 1 July 2029 and 30 June 2034;
 - (3) 254,210 tonnes of CO₂-e for the period between 1 July 2034 and 30 June 2039;
 - (4) 161,770 tonnes of CO₂-e for the period between 1 July 2039 and 30 June 2044;
 - (5) 69,330 tonnes of CO₂-e for the period between 1 July 2044 and 30 June 2049; and
 - (6) zero tonnes of CO₂-e for every five (5) year period from 1 July 2049 onwards.
- 7-2 Where the time between the **commencement of operations** and the end of a period specified in condition 7-1(1) is less than five (5) years, the **net GHG emissions** limit for that period is to be determined in accordance with the following formula:

$$\text{Reduced net GHG emissions limit} = (A \div 1825) \times B$$

Where:

A is the **net GHG emissions** limit for the period as specified in condition 7-1.

B is the number of days between the **commencement of operations** and the end of the relevant period specified in condition 7-1.

7-3 Within six (6) months of commencing **ground disturbing activities**, and prior to the **commencement of operations**, or such lesser time approved in writing by the **CEO**, the proponent shall revise, and submit to the **CEO**, the Greenhouse Gas Emissions Environmental Management Plan (**GHGEEMP**) to:

- (1) be consistent with the achievement of the **net GHG emissions** limits in condition 7-1 subject to the adjustment provided for in condition 7-2 (or achievement of emission reductions beyond those required by those emission limits);
- (2) specify the estimated **proposal GHG emissions** and **emissions intensity** for the life of the proposal;
- (3) include a comparison of the estimated **proposal GHG emissions** and **emissions intensity** for the life of the proposal against other relevant emissions reduction practices, pathways and comparable facilities;
- (4) identify and describe any measures that the proponent will implement to avoid, reduce and/or offset **proposal GHG emissions** and/or reduce the **emissions intensity** of the proposal; and
- (5) provide a program for the future review of the **GHGEEMP** to:
 - (a) assess the effectiveness of measures referred to in condition 7-3(4); and
 - (b) identify and describe options for future measures that the proponent may or could implement to avoid, reduce, and/or offset **proposal GHG emission** and/or reduce the **emissions intensity** of the proposal.

7-4 The proponent:

- (1) may revise and submit to the **CEO** the **confirmed GHGEEMP** at any time;
- (2) must revise and submit to the **CEO** the **confirmed GHGEEMP** if there is a material risk that condition 7-1 will not be complied with, including but not limited to as a result of a change to the proposal;

- (3) must revise and submit to the **CEO** the **confirmed GHGEEMP** by the date that the first five (5) yearly consolidated report is required to be submitted under condition 7-9(1) and every five (5) years after that date; and
 - (4) must revise and submit to the **CEO** the **confirmed GHGEEMP** as and when directed to by the **CEO**.
- 7-5 Within one (1) month of receiving confirmation in writing from the **CEO** that:
 - (1) the **GHGEEMP** referred to in condition 7-3 has been revised and satisfies condition 7-3; or
 - (2) any subsequent version of the **confirmed GHGEEMP** submitted under condition 7-4 which satisfies the requirements of condition 7-3,the proponent must submit a separate summary of the relevant plan to the **CEO**, which must:
 - (3) include a summary of the matters specified in conditions 7-3(1) to condition 7-3(4); and
 - (4) be published as required by condition 7-10(2).
- 7-6 The proponent shall implement the most recent version of the **confirmed GHGEEMP** until the **CEO** has confirmed by notice in writing that it has been demonstrated that **the net GHG emission** limits in condition 7-1 have been met.
- 7-7 The proponent shall submit an annual report to the **CEO** each year by 31 March, commencing on the first 31 March after the **commencement of operations**, or such other date within that financial year as is agreed by the **CEO** to align with other reporting requirements for **GHG**, specifying for the previous financial year:
 - (1) the quantity of **proposal GHG emissions**; and
 - (2) the **emissions intensity** for the proposal.
- 7-8 The proponent shall submit to the **CEO** by 31 March 2030 or such other date within that financial year as is agreed by the **CEO** to align with other reporting requirements for **GHG**, and every five (5) years thereafter:
 - (1) a consolidated report specifying:
 - (a) for each of the preceding five financial years, the matters referred to in conditions 7-7(1) and conditions 7-7(2);

- (b) for the period specified in condition 7-1 that ended on 30 June of the year before the report is due:
 - (i) the quantity of **proposal GHG emissions**;
 - (ii) the **net GHG emissions**;
 - (iii) any measures that have been implemented to avoid or reduce **proposal GHG emissions**; and
 - (iv) the type, quantity, identification or serial number, and date of retirement or cancellation of any **authorised offsets** which have been retired or cancelled and which have been used to calculate the **net GHG emissions** referred to in condition 7-8(1)(b)(ii), including written evidence of such retirement or cancellation.
 - (2) an audit and peer review report of the consolidated report required by condition 7-8(1), carried out by an independent person or independent persons with suitable technical experience dealing with the suitability of the methodology used to determine the matters set out in the consolidated report, whether the consolidated report is accurate and whether the consolidated report is supported by credible evidence.
- 7-9 A consolidated report referred to in condition 7-8(1) must be accompanied by:
- (1) a revision of the **confirmed GHGEEMP** required under 7-4(3); and
 - (2) a separate summary report, for the period specified in condition 7-1 that ended on 30 June of the year before the report is due and any previous periods specified in condition 7-1, and which includes:
 - (a) a graphical comparison of **net GHG emissions** with the **net GHG emissions** limits detailed in condition 7-1 (subject to the adjustment provided for in condition 7-2);
 - (b) proposal **emissions intensity** compared to comparable facilities;
 - (c) a summary of measures to reduce the **proposal GHG emissions** undertaken by the proponent for compliance periods detailed in condition 7-1; and
 - (d) a clear statement as to whether limits for **net GHG emissions** set out in condition 7-1 have been met, and whether future **net GHG emissions** limits are likely to be met, including a description of any reasons why those limits have not been, and/or are unlikely to be met.

- 7-10 The proponent shall make the **confirmed GHGEEMP**, the summary of that plan, and all reports required by this condition 7 publicly available on the proponent's website, and provided to the **CEO** in electronic form suitable for on-line publication by the Department of Water and Environmental Regulation, within the timeframes specified below, or in any other manner or time specified by the **CEO**:
- (1) any **confirmed GHGEEMP** within twenty (20) business days of receiving written confirmation from the **CEO** as referred to in condition 7-3; and
 - (2) the summary of any **confirmed GHGEEMP** referred to in condition 7-5 and the reports referred to in condition 7-7, condition 7-8, and condition 7-9 within twenty (20) business days of submitting the document to the **CEO**.

Table 11: Abbreviations and definitions

Acronym or abbreviation	Definition or term
Aboriginal cultural heritage site	Means sites with tangible and intangible elements that are important to the Ngaanyatjarra People, and are recognised through social, spiritual, historical, scientific, or aesthetic values, as part of Aboriginal tradition.
Authorised offsets	Units representing GHG emissions issued under one of the following schemes and cancelled or retired in accordance with any rules applicable at the relevant time governing the cancellation or retiring of units of that kind: <ul style="list-style-type: none"> (a) Australian Carbon Credit Units issued under the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i> (Cth); (b) Verified Emission Reductions issued under the Gold Standard program; (c) Verified Carbon Units issued under the Verified Carbon Standard program; or (d) other offset units that the Minister has notified the proponent in writing meet integrity principles and are based on clear, enforceable and accountable methods.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or the CEO's delegate.
Commencement of operations	Means commencing operation of the plant infrastructure for the proposal and includes pre-commissioning, commissioning, start-up and operation of the plant infrastructure for the proposal. Also refers to any mode or method of working whereby the earth or any rock structure stone fluid or mineral bearing substance may be disturbed, removed, washed, sifted, crushed, leached, roasted, distilled, evaporated, smelted, combusted, refined or dealt with, for the purpose of obtaining any mineral or processed mineral resource whether it has been previously disturbed or not (under the <i>Mining Act 1978</i>).
Confirmed	In relation to a plan required to be made and submitted to the CEO , means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition. In relation to a plan required to be implemented without the need to be first submitted to the CEO , means that plan until it is revised, and then means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition
Consult	At a minimum, good practice consultation as detailed in the <i>Consultation policy for section 18 applications</i> (Department of

	Planning, Lands and Heritage, 2023) or any subsequent publication by the agency administering the <i>Aboriginal Heritage Act 1972</i> for which Aboriginal heritage consultation standards are provided.
Disturb/ disturbance	Means directly has or materially contributes to the disturbance effect on health, diversity or abundance of the receptor/s being impacted or on an environmental value. In relation to Aboriginal cultural heritage, includes direct physical or biological effects on the tangible and intangible elements that are important to Aboriginal people, and are recognised through social, spiritual, historical, scientific or aesthetic values, as part of Aboriginal tradition.
Emissions intensity	Proposal GHG emissions per tonnes per annum of ore produced, or such other production value determined by the CEO as applicable to allow comparison with other producers.
EP Act	<i>Environmental Protection Act 1986</i> .
GHG emissions	Greenhouse gas emissions expressed in tonnes of carbon dioxide equivalent (CO ₂ -e) as calculated in accordance with the definition of 'carbon dioxide equivalence' in Section 7 of the <i>National Greenhouse and Energy Reporting Act 2007</i> (Cth), or, if that definition is amended or repealed, the meaning set out in an Act, regulation or instrument concerning greenhouse gases as specified by the Minister.
GHGEEMP	Greenhouse Gas Emissions Environmental Management Plan
Greenhouse gas or GHG	Has the meaning given by Section 7A of the <i>National Greenhouse and Energy Reporting Act 2007</i> (Cth) or, if that definition is amended or repealed, the meaning set out in an Act, regulation or instrument concerning greenhouse gases as specified by the Minister.
Ground disturbing activities	Any activity undertaken in the implementation of the proposal, including any clearing, civil works or construction, other than preliminary works to which approval has been given under the EP Act
Net GHG emissions	Proposal GHG emissions for a period less any reduction in GHG Emissions represented by the cancellation or retirement of authorised offsets which: (a) were cancelled or retired between the first day of the period until 1 March in the year after the period has ended; (b) have been identified in the report for that period as required by condition 7-8(1)(b)(iv); (c) have not been identified as cancelled or retired in the report for that period as required by condition 7-8(1)(b)(iv); (d) have not been used to offset GHG emissions other than proposal GHG emissions ; and (e) were not generated by avoiding proposal GHG emissions .

<p>Ngaanyatjarra community / Ngaanyatjarra people</p>	<p>Ngaanyatjarra community:</p> <ul style="list-style-type: none"> • The Ngaanyatjarra community and Irrunytju residents who have the potential to be impacted by the proposal. <p>Ngaanyatjarra people include:</p> <ul style="list-style-type: none"> • Ngaanyatjarra Traditional Owners are the sub-set of Ngaanyatjarra People with particular responsibilities and rights under traditional law and custom in relation to the proposed development envelope. • Native Title holders in relation to Ngaanyatjarra Lands Native title determination WAD6004/2004.
<p>Proposal GHG emissions</p>	<p>GHG emissions released to the atmosphere as a direct result of an activity or series of activities that comprise/s or form/s part of the proposal.</p>

Appendix C: Decision-making authorities

The decision-making authorities 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*.

Table 22: Identified relevant decision making authorities for the proposal

Decision-Making Authority	Legislation (and approval)
1. Minister for Aboriginal Affairs	<i>Aboriginal Heritage Act 1972</i>
2. Minister for Mines and Petroleum	<i>Mining Act 1978</i> (Granting of a mining lease / general purpose lease / retention licence)
3. Minister for Water	<i>Rights in Water and Irrigation Act 1914</i> (Water abstraction licence)
4. Minister for Environment; Climate Action	<i>Biodiversity Conservation Act 2016</i> (Take or disturb threatened species)
5. Chief Dangerous Goods Officer, Department of Mines, Industry Regulation and Safety	<i>Dangerous Goods Safety Act 2004</i> (Storage and handling of dangerous goods)
6. Chief Executive Officer, Department of Water and Environmental Regulation	<i>Environmental Protection Act 1986</i> (Works Approval and Licence)
7. Executive Director, Resource and Environmental Compliance Division, Department of Mines, Industry Regulation and Safety	<i>Mining Act 1978</i> (Mining proposal and Mine Closure Plan)
8. Chief Executive Officer, Shire of Ngaanyatjaraku	<i>Planning and Development Act 2005</i> <i>Building Act 2011</i>

Note: In this instance, agreement is only required with DMAs 1 – 4 since these DMAs are Ministers.

Appendix D: Regulation under other statutory processes

Table 33: Identified relevant decision-making authorities for the proposal

Statutory decision-making process	Environmental outcome
<i>Aboriginal Heritage Act 1972</i>	No disturbance to Aboriginal cultural heritage, unless consent is granted to disturb that site under the <i>Aboriginal Heritage Act 1972</i> and has involved reasonable steps to consult with relevant Traditional Owners.
<i>Environmental Protection Act 1986</i> - part V works approval and licence <i>Environmental Protection (Noise) Regulations 1997</i>	Regulate emissions and discharges from construction and operations to achieve the following outcomes: <ol style="list-style-type: none"> 1. Protect air quality (including from NO₂, SO₂, PM₁₀, PM_{2.5}, TSP, and H₂SO₄ ground level concentrations (GLCs) and dust deposition) at sensitive receptors through application of relevant air quality criteria 2. Protect sensitive receptors from noise.

References

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